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THE

REPORTS OF COMMITTEES

OF THE

HOUSE OF REPRESENTATIVES

FOR THE

FIRST SESSION OF THE FIFTY-SECOND CONGRESS.

1891-'92.

IN TWELVE VOLUMES.

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INDEX TO REPORTS OF HOUSE COMMITTEES.

CONTENTS OF THE VOLUMES.

Vol. 1..Nos. 1 to 322, inclusive.
Vol. 2..Nos. 323 to 686, inclusive, except No. 634.
Vol. 3..Nos. 687 to 943, inclusive.
Vol. 4..Nos. 944 to 1302, inclusive.
Vol. 5..Nos. 1303 to 1641, inclusive, except No. 1454.
Vol. 6..No. 1454.
Vol. 7..Nos. 1642 to 1955, inclusive, except No. 1868.
Vol. 8..No. 1868, part 1.
Vol. 9..No. 1868, part 2.
Vol. 10..Nos. 1956 to 2147, inclusive, except Nos. 1960, 2087, and 2090.
Vol. 11..No. 1960.
Vol. 12..No. 2090.

NOTE.—Nos. 634 and 2087 not printed.

INDEX TO THE REPORTS.

DIVISION NO. 1.

SUBJECT OF REPORTS.

Subject.	Rept.	Vol.
A.		
Abbot, Francis L	1317	5
Abbott, D. P	61	1
Abby Ellen (brig, owners of)	70	1
Abingdon, Va., for use of public land as a street	1144	4
Absher, Anderson	1980	10
Academy of Sciences. (*See* National Academy of Sciences.)		
Adams, Charles H	349	2
Adams, O. F	521	2
Adulteration, to prevent, of food and drugs	914	3
Agriculture, inquiry as to effect of present tariff laws on	191	1
report on effect of tariff on	214	10
Agricultural Department. (*See* Department of Agriculture.)		
Agricultural products, taxing fictitious gambling in	969	4
Alabama, resolution for investigation of violations of civil service law in	1747	7
Alabama River, to allow Montgomery, Tuscaloosa and Memphis Railroad to bridge	1683	7
Alaska, relative to domesticated reindeer for	1093	4
Alcantara, Francisco	1202	4
Alden, Warren Alonzo	1089	4
Aldrick, E. J	284	1
Alexander, Adeline	527	2
Alexander, Thomas L. (legal representatives of)	1400	5
Alexander, William J	289	1
Algiers, La., for dry dock at	251	1

Subject.	Rept.	Vol.
Allard & Crozier	49	1
Allen, George R	247	1
Allen, Jane	101	1
Allen, Katie	1565	5
Allen, L. D	648	2
Allen, Lewis D	669	2
	671	2
Allen, Martha A., administratrix of Wyatt M	597	2
Allentown, Pa., to erect public building at	2109	10
Allsworth, Edward	1186	4
Alpena, Mich., to erect public building at	1849	7
Alsbury, Edward P	219	1
Alsup, John F	848	3
Alvis Henry J	1354	5
American Florists, to incorporate Society of	476	2
American register:		
To allow to certain ships of high grade	927	3
To admit ships to, built in foreign countries	966	4
To grant, to steamship *China*	1634	5
American Revolution, collection, custody, and arrangement of military records of	1357	5
American shipbuilding, to encourage	927	3
Ames & Detrick	906	3
Anacostia and Potomac River Railroad Company, to amend charter of	513	2
Anderson, Allen	589	2
Anderson, A. E	649	2
Anderson, Allen L	1082	4
Anderson, Charles P	1397	5
Anderson, David, deceased	1166	4
Anderson, James C., estate of	1280	4
Anderson, Mary H	1370	5
Anderson, Samuel S	1783	7
Anderson, William H	1673	7
Andes, Abraham	784	3
Angora goats, importation and maintenance of	1094	4
Ann Arbor, Mich., public building at	1110	4
Anniston, Ala., public building	1097	4
Antisell, Thomas	389	2
Appeals, to amend Revised Statutes relative to, in capital cases	1607	5
Appropriation, relative to further extension of temporary	2119	10
Appropriation bills:		
Agricultural Department, deficiency in	518	2
Agricultural	1586	5
Army	549	2
Census deficiency	432	2
urgency for	9	1
Diplomatic and consular	891	3
District of Columbia	495	2
	1167	4
Fortifications	1257	4
General deficiency	1666	7
Legislative, executive, and judicial	1526	5
Indian	325	2
	1052	4
Military Academy	5	1
	925	3
Navy	621	2
	1453	5
Pension	525	2
Pension deficiencies	1580	5
Post-Office appropriations	1135	4

Subject.	Rept.	Vol.
Appropriation bills—Continued.		
River and harbor	967	4
	1468	5
Sundry civil	847	3
Urgent deficiency	526	2
	963	4
	1331	5
Aransas Harbor Terminal Railway Company, to allow, to bridge Corpus Christi Channel	1320	5
Arbitration. (*See* International Arbitration.)		
Archer, Henry W., legal representatives of	79	1
Arctic, owners of Hawaiian bark	918	3
Arizona:		
Unsurveyed lands in grant of Atlantic and Pacific Railroad in	992	4
To amend funding act of	441	2
Admission of	737	3
To ratify act for exhibit at the World's Fair	423	2
Settlers on public land in Tucson district of	1664	7
Relative to timber cutting on public lands in	1379	5
Arkansas:		
Additional clerk for courts in eastern district	295	1
Settlement of account between, and United States	693	3
Armelin, Charles, estate of	831	3
Armistead, Vincent	1271	4
Armstrong, Edward S	706	3
Army:		
Accounts, readjustment of certain, with officers of the	1209	4
Administration of justice, to promote	817	3
Appropriation for	549	2
Board of review, to provide for a, in the	1074	4
Certificates of merit, to amend law relating to	542	2
Enlisted men, promotion of, in the	1358	5
Hospital Corps, pay of privates in	172	1
Medical officers in, grade of certain	894	3
Officers, lineal promotion of	171	1
Adjustment of accounts known as longevity pay of	1209	4
Detail of, for the World's Columbian Exposition	236	1
	1470	5
Promotions, to regulate	1818	7
Retired enlisted men, pay and allowance of, in the	824	3
	821	3
Retired list, relative for privates and noncommissioned officers	823	3
	825	3
Summary courts, relative to powers of	817	3
Nurses, relative to pensions for	802	3
Arnold, Mrs. M. E	1472	5
Article of War, to amend Seventeenth	1356	5
Arrests, regulating proceedings in cases of, for offenses against United States	1967	10
Asbury, J. C	1746	7
Ashe, John Baptiste, legal representatives of	1132	4
Ashland, Wis., seaport of entry at	999	4
Askew, John J	2029	10
Assistant journal clerk, to make salary of, annual	1223	4
Athens, Ala., Cumberland Presbyterian Church	1180	4
Athens, Ga., Cumberland Presbyterian Church	310	1
Atherton, Amanda	858	3
Athon, Levenia D	1930	7
Atkinson, Mary E., administratrix of Richard	285	1
Atlanta, Ga., St. Philip's Church	660	2
Atlantic Works, Boston, Mass	1965	10
Aubrey, Andrew J	1983	10
Austin, Sterling T., heirs of	125	1

Subject.	Rept.	Vol.
Avery, Frank L	1917	7
Avery, John, estate of	1724	7
Ayers, Asa B	1270	4
Ayres, Eli, legal representatives of	2113	10
B.		
Backman, Charles	1595	5
Bacon, Mary L	1762	7
Badeaux, Alger V	1373	5
Badger, Louis	1616	5
Badger, Oscar C	1483	5
Bagshaw, George	205	1
Baker, Henry M	1653	7
Baker, Sarah K. T	132	1
Baltimore, Md., for relief of night inspectors at port of	2027	10
Public building	2111	10
Violations of civil service at	1669	7
Baltimore, U. S. ship, to authorize officers and crew to accept medals	1001	4
Balzer, Gustavus A	1787	7
Barnfield, James	579	2
Bancroft, George, to purchase library and manuscripts of	1947	7
Bancroft, Hubert Howe, to appoint a committee to appraise library of	1795	7
Bandry, Omer and David	1428	5
Bank of Louisiana, creditors of	403	2
Bank notes. (*See* National banks; *also* State banks.)		
Bankrupt bill, to print 5,000 copies of	2075	10
Bankruptcy, to provide for a uniform system of	1674	7
Banks, Charles	1046	4
Banister, Elizabeth M	1299	4
Barber, Alonzo D	860	3
Barnard, Anna E	2076	10
Barnes, Benjamin S	1523	5
Barnes, George W	1384	5
Barnett, Druke Nettie	1240	4
Barr, George W	574	2
Barrett, Walter	1622	5
Barron, Mary	1017	4
Barrow, David C	492	2
Bass, Giles W	650	2
Bates, John A	972	4
Battelle & Evans	290	1
Baugh, William	1271	4
Baynard, Joseph, and others	1692	7
Bazell, James B	312	1
Beach, Warren C	1593	5
Beard, I. B	327	2
Beaufort, S. C., Beaufort Library Society	1294	4
Beckley, R. D	1596	5
Beckman, William R	1271	4
Bedford City, Va., to erect public building	1118	4
Beerbower, Martha A	774	3
Behle, Charles H	1220	4
Belger, Fannie N	962 1786	4 7
Bell, Josiah L	1431	5
Bell, Luman	2089	10
Bell, Mary A	660	2
Bell, Thomas P	1323	5
Benett, Martin A., widow and heirs of	719	3
Bentley, Watson S	2061	10

Subject.	Rept.	Vol.
Berks County (Pa.) Agricultural Society	698	3
Beshears, Alvis	158	1
Bethards, Henry J	975	4
Bethel Springs (Tenn.) Presbyterian Church	311	1
Betts, Nichols & Co	97	1
Beuter, Francis A	1984	10
Bevins, Samuel	208	1
Biddle, Jerome H	105	1
Biggs, Asa, estate of	750	3
Bigler, James	1539	5
Bigley, Nicholas J	343	2
Billings, J. M	1197	4
Billingslea, Walter R	649	2
Bills lading. (*See* Interstate commerce.)		
Binding twine, to admit free of duty	502	7
Birch, William A	223	5
Birchett, William G. (estate of)	1724	1
Bishop, Clarissa	1373	2
Bishop, James	136	1
Bishop, Joshua	2025	10
Black, Joseph	832	3
Black, L. E	1280	4
Blackburn, W. Jasper	1464	5
Black River, Arkansas, to authorize construction of bridge across	1684	7
Blackstone, Richard P	1362	5
Blackwell, Thomas (legal representatives of)	1133	4
Blaisdell, Albert	741	3
Blake, C. M	267	1
Blanckenship, John R	788	3
Bliss, Francis A	239	1
Blood, Charles S	646	2
Bloom, Henrietta Y	832	3
Blosser, Joseph	784	3
Blue Mountain Irrigation and Improvement Company, to grant rights of way through Umatilla reservation	1963	10
Blue, Solomon (estate of)	305	1
Blumo, Emile M	1609 1828	5 7
Boag, William R	1462	5
Boarman, Aleck	1536	5
Board of Ordnance and Fortification, to print annual report of War Department	1346	5
Board of review, to establish, in the Army	1074	4
Boardman, William, administrator of	798	3
Boatright, Eliza M	490	2
Bodley, Julia	639	2
Boise, Idaho, to erect public building	1111	4
Bolings, Samuel J	222	1
Bollman, Lydia	1874	7
Bond, William, & Co. and others	1519	5
Bonfoey, Davis B., heirs of	794	3
Bonfoey, Davis B. and Emma W., heirs of	1829	7
Bonner & Merriman	766	3
Boodger, Adda L	460	2
Book agents, for relief of, Methodist Episcopal Church (South)	20	1
Boone, Esther J	1239	4
Booth, James C., deceased	379	2
Booth, M. A	659	2
Bovell, John V	193	1
Boston, Mass., Atlantic Works	711	3
Botto, Luigi	1888	7
Bounties. (*See* War of rebellion.)		
Bourke, John G	1137	4

Subject.	Rept.	Vol.
Boutwell, D. W	433	2
Bowden, Elizabeth	768	3
Bowen, George E	1936	7
Bowling, John, heirs of	1545	5
Boyd, Augustus	455	2
	1809	7
Boyd, Elizabeth T	946	4
Boyd, George W	1302	4
Boyd, L. H	1336	5
Boyd, Orsemus B	751	3
Brackett, Margaret	1735	7
Bradford, Delzell R	1872	7
Bradford, Joseph J	1710	7
Bradford, Pa., to erect public building at	1999	10
Bradley, Horace L	320	1
Brainerd, Martha Noble	1236	4
Branch, Jesse L	1281	4
Brandt, Jesse	1272	4
Brant, Charles T	1721	7
Brantly, W. S. (executor of J. H.)	390	2
Brazos River, to allow Velasco Terminal Railroad Company to bridge	615	2
Breaux, Pierre	831	3
Brennan, Bridget	1875	7
Brewer, Elvy	657	2
Brewer, William H	1237	4
Briant, Mrs. E. H	831	3
Brice, William, & Co. and others	2018	10
Bridgeport, Conn., to erect addition to public building at	2110	10
Bridger, James	1576	5
Bridges, to authorize the erection of, across—		
Alabama River, by Montgomery, Tuscaloosa and Memphis Railroad	1683	7
Black River, Arkansas	1684	7
Brazos River, by Velasco Terminal Railway Company	615	2
Cahaba River, by Montgomery, Tuscaloosa and Memphis R. R. Co	1686	7
Calcasieu River, by Lake Charles Bridge and Road Co	942	3
Cane River, La	1850	7
Columbia River, between Oregon and Washington	1038	4
in Washington	1852	7
English Bayou, by Lake Charles Road and Bridge Company	942	3
Hudson River, by New York and New Jersey Bridge Company	909	3
Illinois River, at—		
Havana, Ill	1175	4
Whitesburg Precinct, Ala	1174	4
Kootenai River	1940	7
Mississippi River, at—		
Davenport Iowa (pontoon)	619	2
Moline, Ill	941	3
Quincy, Ill	912	3
South St. Paul	8	1
Missouri River, at—		
De Witt, Mo	689	3
St. Charles, Mo	910	3
Omaha, Nebr	1688	7
In South Dakota	911	3
Yankton, S. Dak	1176	4
Mobile River, by Chicago, Mobile and Gulf Ports R. R. Co	1685	7
Morrisa nd Cumming Ship Channel, by Aransas Harbor Terminal Railway Co	1320	5
Ohio River, between Cincinnati and Covington	2079	10
Osage River, at Warsaw	618	2

Subject.	Rept.	Vol.
Bridges, to authorize the erection of, etc.—Continued.		
over certain rivers in Alabama by Mexican Gulf, Pacific and Puget Sound Railroad Co	1319	5
Red River, La , by Rapides Bridge Co	1851	7
Red River of the North	1687	7
Rio Grande River, at Brownsville, Tex	1016	4
by Continental Bridge Co	617	2
St. Lawrence River by St. Lawrence Railway Co	1635	6
Tallapoosa and Coosa rivers by Alabama Grand Trunk Railroad	1939	7
Tennessee River, at Deposit, Ala	1663	7
by St. Louis and Birmingham Railway Co	620	2
near Knoxville	1037	4
Warrior River, by Montgomery, Tuscaloosa and Memphis Railroad	1682	7
To extend time of completion, Burlington, Iowa	234	1
Bridges, Rebecca	1982	10
Bridges, Sarah E	661	2
Bridgewater, P. H	1408	5
Briggs, Samuel G	1949	7
Brineman, Cynthia	533	2
Briscoe, Bouldin B	742	3
Briscoe, Jackson	670	3
Bristol, Louis H	1374	5
Britton, William	1088	4
Broadwell, Marcus L	153	1
Brockenbugh, John, estate of	749	3
Brocton, Mass., to erect public building	1116	4
Brooklyn, N. Y., for relief of certain port wardens at	1779	7
sale of navy-yard lands	1482	5
Brooks, John G. W	32	1
Brooks, S. J	1799	7
Brooks, William H. H	1488	5
Broome, John L	1529 1855	5 7
Brott, George F	124	4
Brown, A. M	1281	7
Brown, Elisha	1861	1
Brown, Ellen Wiles	772	3
Brown, Florence A	1010	4
Brown, John J	1227	4
Brown, John T	971	4
Brown, M. G	1336	5
Brown, Thomas	650	2
Brown, Thomas J	1042	4
Brown, William H	540	2
Brownson, Leonard I	1768	7
Bruen, John T	535	2
Brunswick, Ga., public building at	1105	4
to improve outer bar at	1869	7
Bryan, C. B., & Co	809	3
Bryan, William I	1198	4
Buckey, Mary E	781	3
Burkholder, Martin, administrator of Abraham	784	3
Buckmaster, William P., heirs of	1489	5
Buckner, Benjamin F., or Taylor	196	2
Buder, Edward A	607	1
Buffalo Creek, treaty of, to carry out stipulations	858	7
Buffalo, N. Y., to erect public building	1117	4
Bugg, J. H., and others	1127	1
Building-stone lands. (*See* Public Lands.)		
Burdette, John C	206	1
Burditt, Augustus P	342	2
Bureau of American Republics, to print copies of report	2146	10

Subject.	Rept.	Vol.
Bureau of Animal Industry, for printing eighth and ninth annual reports of	1339	5
Bureau of Ethnology, to print eleventh and twelfth annual reports of	1338	5
Bureau of Navigation, detail of assistant to chief of	1989	10
Bureau of Pensions, report of special committee to examine into the working and managment, etc., of, parts 1 and 2	1868	8 9
Bureau of Printing and Engraving, to grant thirty days' leave of absence to employés in	408	2
Burke, Edward, administrator	334	2
Burke, Hannah	1724	7
Burks, John M	2017	10
Burlington, Iowa, to extend time of completion of bridge at	234	1
Burns, Anna Morgan	1138	4
Burrough, William	743	3
Burrows, Frank J	677	2
Burton, Felix	1843	7
Burton, Henry H	1424	5
Burton, Patrick, widow of	1584	5
Burton, William	1045	4
Bushby, William	67	1
Butler Flats, Mass., to erect light and fog-signal station near	187	1
Butler, John M	588	2
Butler, Phillip T	785	3
Byron, Margaret	1877	7
Byrd, Susan C	1932	7
C.		
Cahaba River, Alabama, to allow Montgomery, Tuscaloosa and Memphis Railroad Co. to bridge	1686	7
Cahalan, Edward	576	2
Caine, Catherine	276	1
Cairo, Ill., city of	1524	5
Calahan, Andrew J	795	3
Calcasieu River, by Lake Charles Bridge and Road Co	942	3
Caldwell, C. C	1467	5
Caldwell, John R	650	2
Calhoun, Maggie C	1715	7
California, relative to mining débris in	165	1
claim of, for expenses in war of the rebellion	254	1
hydraulic mining in	937	3
relative to forest reservations in	2096	10
Camden, N. J., to erect public building	1506	5
Cameron, Emma S	550	2
Cameron, James and Emma S	888	3
Campbell, Benjamin F	1770	7
Campbell, George J	1072	4
Campbell, J. M	1272	4
Campbell, Nancy	1782	7
Campbell, Robert S	1757	7
Campbell, Samuel M	1516	5
Camp Tyler, Illinois, for relief of owners of	1637	5
Canada, relative to reciprocal relations with	1957	10
Canals, for survey relative to ship canal to connect Great Lakes with Hudson River	1023	4
to share expenses of State	1022	4
to connect Lake Erie with Ohio River	1416	5
authorizing survey for ship canal from Philadelphia to New York Bay	2002	10
Candy, Charles	1273	4
Cane River, Louisiana, to allow Natchitoches Cane River Bridge Company to bridge	1850	7

Subject.	Rept.	Vol.
Capers, Francis T	1692	7
Capitol, messenger for closets and corridor in terrace	1325	5
Capron, Horace, estate of	664	2
Captured and abandoned property. (*See* Claims.)		
Carl, Barbette	1428	5
Carlton, Ambrose B	1892	7
Carmack, Joseph W	228	1
Carpenter, Elizabeth	773	3
Carpenter, Ellen	2847	10
Carpenter, George	650	2
Carpenter, Thomas H	266	1
	510	2
Carr, Rogers, & Co	814	3
Carrick, Robert	1125	4
Carson, Henry Polite	611	2
Carter, Alfred B	328	2
Cartersville, Ga., First Baptist Church	292	1
Case, Maud	1532	5
Casey, Peter	194	1
Casey, Robert	104	1
Cassell, Ida	955	4
Catonsville, Md., St. Timothy's Church	789	3
Cazes, Bertrand and Gaudin	47	1
Cemeteries. (*See* National Cemeteries.)		
Census, appropriations for continuing work	9	1
to amend act for taking Eleventh	1191	4
to continue report on wages	1315	5
to provide for the printing of	1708	7
Census Bureau, to establish a permanent (inquiry)	1068	4
Census deficiencies, report of	432	2
Census Office, relative to investigating	961	4
to investigate management of	1170	4
partial report on investigation	1933	7
Centennial Board of Finance, relative to dissolving	1150	4
Certificates of merit, to amend laws relative to granting by President	542	2
Chadwick, Susannah	714	3
Chaetham, Adelicia	263	1
Chamberlain, John	1517	5
Chamberlain, Charles H	686	2
Chamberlin, Mary	1443	5
Chambers, Thomas	1062	4
Champlain and St. Lawrence Railroad	477	2
Chapin, Gurden	1188	4
Chapman, Edward R	902	3
Chapman, Henley W	1481	5
Chapman, Samuel H	2006	10
Charleston, S. C., relief of Citadel Academy	1720	7
Cheatman, Adelicia, representatives of	974	4
Cheek, Mrs. Nelson	785	3
Cheek, R. T	648	2
Cheney, Wells	87	1
Chelan, Washington, for relief of inhabitants of	237	1
Cherokees. (*See* Indians.)		
Cherokee Outlet, to ratify agreement relative to	1631	5
Chesapeake Bank, Baltimore	1730	7
Chesbrough, Nicholas G	610	2
Chester, Lester P., and others	1288	4
Chester, Walter B., schooner, owners of	1610	5
Cheyenne, Wyo., to erect public building	1119	4
Chicago, Ill., repairs, etc., of post-office at	566	2
site for public building	567	2
to improve U. S. Marine Hospital at	855	3

Subject.	Rept.	Vol.
Chicago River, relative to licenses of United States, to use pier at mouth of	616	2
Chicago Exposition. (*See* World's Columbian Exposition.)		
Chickasaws. (*See* Indians.)		
Chile, to print President's message relative to, etc	307	1
China, steamer, to grant American register to	1630	5
Chinese, for exclusion of	255	2
Chocolate, relative to duties on	1436	5
Choctaws. (*See* Indians.)		
Chouteau, Charles P	50	1
Christien, Margaret	301	1
Christopher, Mary B	1913	7
Christy, John, & Co	350	2
Chum, A. B	651	2
Churches. (*See* Claims.)		
Churchill, Benjamin	976	4
Cities, investigation of "slums" of	572	2
City Fire Insurance Co., New York	1730	7
Citizens' Bank of Louisiana	340	2
Civil service, relative to preference of veterans in	1669	7
report relative to violations of, at Baltimore	1669	7
resolution to investigate violation of, law in Alabama	1747	7
resolution to investigate violations of, at Baltimore	1141	4
Civil Service Commission, to print eighth annual report of	1337	5
Claiborne, Courtney Ann	1898	7
Claims, amendment to Revised Statutes relative to transfers and assignments of, against United States	422	2
certain, for stores and supplies for Army during war of rebellion	1552	5
certain, under "Fourth of July" act	38	1
of certain States and city of Baltimore	220	1
classified findings of, from Court of Claims	1510	5
Florida, suppressing Indian hostilities	273	1
for payment of certain, of certain Louisiana plantations	1336	5
Indian war claims of citizens of Nevada	117	1
Kansas, citizens of	602	2
list of twelve, under Fourth of July act	1248	4
moiety, of officers and crews in the Navy	242	1
of States for defense of the United States	552	2
for interest on funds expended for	555	2
pay and bounty, to facilitate settlement of, for	484	2
Pennsylvania, for militia expenses during civil war	167	1
for damages to citizens by armies	166	1
relating to extension, etc., under the captured and abandoned property act	1377	5
relative to, of church and school buildings	11	1
to allow examination of papers in, arising out of military or naval service	1531	3
war of rebellion claims of California, Oregon, and Nevada	254	1
Clapp, George M	268	1
Clapp, Sarah A	274	1
Clara Bell, steamer	1219	4
Clark, Charity W	638	2
Clark, George W	2031	10
Clark, James S., estate of	377	2
Clark, Stephen D	241	1
Clarkson, James	2039	10
Cleaveland, Jesse	1836	7
Clerks of United States courts, relative to returns of fees	1970	10
Cleveland, Elizabeth J	1281	4
Clift, William	723	3

Subject.	Rept.	Vol.
Clinton, Iowa, to erect public building	1099	4
Coast and Geodetic Survey, to print report of Superintendent of	1342	2
Cobb, Blasddell & Co	350	5
Cobb, J. & O. P., & Co., surviving partners of	350	2
Cobb, Oliver P	350	2
Cobb, O. P., and others	351	2
Coffman, Joseph	2048	10
Cogswell & Co	2013	10
Cohen, Jacob J., administrator	717	3
Cohn, Henry S	907	3
Coins and coinage, for amendment to Constitution relative to issuing coin, etc	294	1
for free coinage of gold and silver	249 1839	1 7
Cole, Broad	586	2
Cole, Mrs. S. M	783	3
Coleman, Sarah and Florence	1282	4
Collards, W. H	1336	5
Collectors of Customs. (*See* Customs Service.)		
Collins, Joseph	832	3
Colonial Dames of America, to incorporate the Society of	256	1
Colorado, relative to land titles in	1253	4
to assist to maintain a school of mines	841	3
Columbia Bridge, Pennsylvania, relief of owners of	777	3
Columbian Exposition. (*See* World's Columbian Exposition.)		
Columbian Historical Exposition at Madrid	923	3
Columbia River, to bridge, between Washington and Oregon	1038	4
Columbia River, Washington, to authorize bridge across	1852	7
Columbus, Ohio, right of way for Leonard Avenue Street Railway Company	1698	7
Colvill, William	635	2
Colville Reservation, agreement with Indians on	1035 1525	4 5
Commerce, to protect, against unlawful restraints and monopolies	1418	5
with Europe, to print copies of special report on	2135	10
Commercial Mutual Fire Insurance Company, New York	1730	7
travelers, to allow special rates to	186	1
Commissioner of Education, to print report of, for 1890	2136	10
Fish and Fisheries, to print report of, for 1889-'90, 1890-'91	1344	5
Labor, to print seventh annual report of	2137	10
Commissioners of United States courts, relative to fees of	1968	10
Committees, clerks assigned to	1	1
Committee on Accounts, annual clerk for	752	3
Agriculture, to pay messenger for	2128	10
to investigate the Pension Bureau, pay of stenographer and assistant clerk for	1322	5
Common carriers. (*See* Interstate commerce.)		
Compagnie Française du Télégraphe de Paris et New York	964	4
Congress:		
Proposed constitutional amendment relative to election of Representatives in, and changing time of meeting of	543	2
Relative to changing day of assembling	810	3
Congressional correspondence, to establish an office	479	2
Directory, inquiry as to map of Congressional districts in	246	1
documents, list of, to print copies of	1340	5
Record, relative to expunging certain remarks of Hon. Joseph H. Walker from	799	3
Connel, Michael	785	3
Conroy, Eliza	2077	10

Subject.	Rept.	Vol.
Constitution of the United States:		
For amendments to:		
Relative to issue of money	294	1
Relating to marriage and divorce laws	1290	4
Relative to election of Senators by the people	368	2
Contested elections:		
Craig *vs.* Stewart	367	2
Noyes *vs.* Rockwell	968	4
Continental Fire Insurance Company, New York	1730	7
Contract labor. (*See* Labor.)		
Convict labor. (*See* Labor.)		
Cook, James A	1638	5
Cook, Jared R	649	2
Cook, Matilda	138	1
Cooper, Hudson, legal representatives of	776	3
Cooper, Thomas	956	4
Coosa River, to allow Alabama Grand Trunk Railroad to bridge	1939	7
Copen, Addison M	998	4
Copenhaver, A. J	1934	7
Corcoran, Mary J	1590	5
Cordill, Joseph	829	3
Cordray, David P	791	3
Core, A. S	551	2
Corporations, to accept, as sureties, etc	1229	4
Corridon, James	761	3
Corser, David S	1243	4
Cota, Harriet	1815	7
Cothes, H., heirs of	26	1
Cotton bagging, ties, and gins, to remove duties from	503	2
Council Bluffs, Iowa, to make a port of delivery	507	2
to pay for constructing pavements	793	3
Couplers. (*See* Railroads.)		
Courchaine, Daniel B	363	2
Court of appeals, District of Columbia, to amend act establishing	1172	4
Court of Claims, appeal from, to amend section 707 of Revised Statutes relative to	1825	7
disposition of causes in	1259	4
extending jurisdiction of, to cases of land patents	1706	7
relative to inquiry of chief justice of, for certain information	1540	5
to amend act relative to jurisdiction of	366	2
Court of Private Land Claims, to amend act establishing	908 1173	3 4
Courts of the United States, appeals, to amend Revised Statutes relative to, in capital cases	1607	5
Arkansas, an additional clerk for, in eastern district	295	1
arrests, regulating proceedings	1967	10
circuit court of appeals, relative to	1258	4
costs, etc., in, of the poor litigant	1079	4
decrees, sale of property under	270	1
depositions in criminal cases, to amend Revised Statutes relating to	446	2
fees, return of, by district attorneys	1969	10
return of, by clerks	1970	10
return of, by commissioners	1968	10
Georgia, to amend act creating northern judicial district of	444	2
Idaho, times and places for holding, in	309	1
illegal practices, report of investigation into	1966	10
Indian Territory, judgments and decrees	1437	5

Subject.	Rept.	Vol.
Courts of the United States, judges, requiring, to conform to State laws in giving charge to jury	189	1
judges and justices, disqualifying, in certain cases	406	2
judgments, limiting lien of, on real estate to county in which filed	170	1
jurisdiction, to limit, of district and circuit	271	1
jurors and witnesses, fees for traveling in certain States and Territories	424	2
Kansas, to create third division in	571	2
Kentucky, to regulate terms in	1971	10
Maryland, to hold terms in Cumberland	405	2
Mississippi, clerks of, for	932	3
Missouri, time of holding, in western district of	755	3
Montana, to establish the southern division of	1816	7
murder, defining, in first and second degree	504	2
New Hampshire, terms of, at Littleton	442	2
New York, relative to terms of, in northern district	1013	4
North Dakota, to divide judicial district of	983	4
Oklahoma, additional supreme judge for	1413	5
relative to district, regulations of, etc	944	4
to amend laws relative to	2054	10
papers in causes, amending Revised Statutes relating to	445	2
practice and actions in, relating to form of	994	4
South Carolina, for an additional term of, in	1788	7
South Dakota, to regulate times of holding in	1846	7
Texas, to change time of holding	231	1
transcripts, amending Revised Statutes relative to	445	2
Utah, additional justice for supreme court of	232	1
West Virginia, time of holding, in	933	3
Wisconsin, relative to western district of	2	1
to change times of holding, in	176	1
Wyoming, terms for Evanston	984	4
Cousens, George Lewis	216	1
Cowgill, Sarah	1450	5
Cowles, Calvin J	930	3
Cowper, Leopold C. P., legal representatives of	721	3
Cozad, Henry	2041	10
Crabill, Joseph D., estate of	784	3
Craig, Alexander K., contested election case of	367	2
Craig, Joseph	1992	10
Cramer, Delos	452	2
Crangle, Henry	1937	7
Cranston, Sarah M	1328	5

Subject.	Rept.	Vol.
Crawford, Elizabeth R	336	2
Crawford, James S	905	3
Crenshaw, A. L. H	112	1
Crews, Hamilton	345	2
Crider, R. H	37	1
Crider, S. F	131	1
Criner, Eliza A	1808	7
Cronk, Charles W	1568	5
Crosby, William	783	3
Cross, Joel	660	2
Crow, William	658	2
Crum, Elizabeth and B. L	597	2
Cullen, James	1914	7
Culver, Catherine P., heirs of	389	3
Cumberland, Md., to hold United States courts at	405	2
to erect public building	096	4
Cummings, Doyle & Co	39	1
Cummings, Phœbe	649	2
Cunningham, Calvin B	391	2
Currency, amendment to Constitution relative to issuance of	294	1
relative to issuance of postal notes	1314	5
Customs service, inspectors, for relief of night, at New York and Baltimore ports	2027	10
leave of absence to per diem employés in the	1213	4
relative to compensation of collectors and surveyors in the	1233	4
Cutts, J. Madison	2118	10
	2131	10
Cynthiana, Ky., to appoint a commission to ascertain fact concerning destruction of property at	413	2
D.		
Dabney, Simmons & Co	414	2
Dakota, Territory of, correcting description of certain lands granted to	385	2
Dally, Abraham	1709	7
Dalton, Ga., trustees of Catholic church	291	1
Dana, Napoleon, J. T	454	2
	1441	5
Danahay, Margaret	1563	5
Daniel, Calvin	1028	4
Danolds, Charles A	655	2
Darly, F. O., estate of	831	3
Davis, Annie	1919	7
Davis, A. W	599	2
Davis, Cassie A	959	4
Davis, Enoch	278	1
Davis, James A	339	2
Davis, John M	1756	7
Davis, F. W	645	2
Davis, Jacob R., heirs of	1549	5
Davis, Mark	33	1
	1683	7
Davis, Marshall	648	2
Davis, Mrs. M. M	649	2
Davis, Susanna	1838	7
Day, Cornelius	1997	10
Day, Ellen	1390	5
Day, Nancy	1600	5
Deafness, to increase rate of pension for	1920	7
Dealy, David	1950	7
Dean, John A	1863	7

Subject.	Rept.	Vol.
De Bevoise, S. H	1270	4
Debnam, Thomas R	661	2
Decatte, Owden	832	3
Decatur, Ill., to erect public building	1528	5
Declarations. (*See* Pensions)	559	2
Decrees. (*See* Courts of United States.)		
Deems, Lewis	1008	4
Defford, James, heirs of	1651	5
Deitrich, Emily	1279	4
Delahoussaye, Sidonie	1370	5
Delaware, claim growing out of war of 1812	220	1
Delawares. (*See* Indians.)		
De Leon, Agnes and Maria	2015	10
Delille, Jaen	1279	4
De Loach, Claiborne, heirs of	1272	4
De Loach, Claiborne, estate of	1270	4
Denham, Merril	1797	7
Dennis, James H	1601	5
Denison and Northern Railway Company	1060	4
Dennis, Mary A	832	3
Denny, George, sr	522	2
Dent, Warren R	332	2
Department of Agriculture, annual appropriation bill for	1586	5
deficiency appropriations for	518	2
Depositions. (*See* Courts of the United States.)		
De Russy, Helen A	2101	10
Desertion, to extend time of act for removal of charges in certain cases	1381	5
Deslonds, Francis E	1370	5
Desmarc, Alphonse	1373	5
Des Moines, Iowa, to make a port of delivery	852	3
Des Moines River lands, relative to settlers on	1075	4
Despatch, U. S. S., for relief of sufferers by wreck of	1749	7
Detroit, Mich., releasing claim to lot in	163	1
Deucatte, Odon	83	1
DeWeese, Samuel Elza, to grant patent for land in Oklahoma	1662	7
Deyo, Jonas	1885	7
Dickson, David, and others	392	2
Dickson, Davidson, and others	935	3
Dieters, John	1924	7
Diplomatic and consular service, appropriations for	891	3
Discovery of America, to make the four hundredth anniversary of, a holiday	1527	5
Diseases of the horse, to print additional copies of report on, for distribution	726	3
District attorneys, relative to returns of fees by	1969	10
District of Columbia, academy and gallery of art, to authorize the establishment of	1895	7
alleys, opening of	865	3
pay for condemned	630	2
to prevent building of houses on certain	324	2
Anacostia Street Railway, to amend charter of	513	2
animals, to prevent cruelty to	1215	4
appropriations, annual	495	2
disagreement with Senate in part	1167	4
assessment of taxes, report of investigation	1469	5
to appoint special committee to investigate	1679	7

Subject.	Rept.	Vol.
District of Columbia, assessments, time of making, outside of Washington and Georgetown	518	2
building, etc., associations, regulating deposits in	758	3
certificate of indebtedness, for the payment of a	633	2
children, to prevent cruelty to	1215	4
claims, settlement of outstanding against	2129	10
commission merchants, relative to fraudulent transactions of	631	2
confirming title to certain lands in Washington (square 206)	1004	4
court of appeals, to amend act establishing	1172	4
dentistry, practice of	870	3
dependent children, relating to care of	945	4
drawback certificates, to make receivable for current taxes	409	2
Eckington and Soldiers' Home Railroad Company, to amend charter	190	1
foreign corporations, providing for semi-annual statements from	1147	4
Fourth Street Methodist Episcopal Church, to give title to public square 1102 in	1831	7
Glen Echo Railroad Company, to allow to cross Washington Aqueduct, in the	1151	4
highways, permanent system of	866	3
historical manuscripts, to provide for purchase of, relating to	1216	4
ice on Sunday	1440	5
incorporation law, to amend	7	1
institutions of learning	864	3
land titles, to amend laws relating to	629	2
livery-stable keepers, protection of	871	3
lot 10, square 683, to purchase	2107	10
Maryland and Washington Railway Company, to incorporate	425	2
Memorial Association, appointment to, in	1149	4
Metropolitan Railroad Company, to amend act of 1891 relating to forfeiture in certain cases	1847	7
National Safe Deposit Company, to change name of	175	1
National Union Insurance Company	760	2
Norfolk and Western Railroad, to authorize extension of, into	1628	5
overhead wire, relative to removal	1629	5
pardons, to grant Commissioners of, the right to grant in certain cases	124	1
Petwoorth, Brightwood and Takoma Railway Company, to incorporate	1289	4
plumbing, for inspector of	869	3
produce dealers' license tax, to repeal	1254	4
property, unlawful appropriation and use of	632	2
Protestant Episcopal Cathedral foundation, to incorporate	1900	7
police court, to define jurisdiction	1926	7
real estate, conveyances of	867	3
reformatory, etc., for women, for erection of	846	3
regulations, to protect peace and property in	2001	10
Rock Creek Railway, to amend charter	759	3
sanitary engineers, to print copies of report of	1348	5
square 454, to allow postmaster to construct platform in the alley in	1896	7

Subject.	Rept.	Vol.
District of Columbia, square 673, to resubdivide	1626	5
streets, extension of North Capitol	1421	5
street railways, extending time for change of motive power on certain, in	803	3
regulation and equipment of	1169	4
to prohibit use of one-horse cars on	1152	4
Suburban Railway Co., to incorporate	326	2
tax ledgers, duplicate	516	2
tax sales and taxes, unpaid certificates	517	2
to grant absence of certain employés of the Government in, during Grand Army of the Republic encampment of 1892	1382	5
trial bonds, relative to false swearing before, of police force and fire department	628	2
Washington and Great Falls Electric Railway, to incorporate	1627	5
water revenues, fraud upon	*868	3
weapons, to prevent carrying of dangerous in the	1148	4
Y street, extension of	1024	4
Dittlinger, Michael	429	2
Divorce. (*See* Marriage and divorce.)		
Doherty, M. A	649	2
Dolman, Jacob	784	3
Donaldson, Mary E	811	3
Donato, Auguste, heirs of	329	2
Donato, Belote A	832	3
Donnell, George C	115	1
Donnelly, Peter	805	3
Doolittle, Esther	41	1
Dorr, John N	137	1
Dougherty, Mary A	648	2
Douglas, W. W., administrator	832	3
Downey, Amelia	784	3
Downing, A. B., estate of	649	2
Downs, Francis	1365	5
Doyle, Johanna	785	3
Doyle, William	776	3
Doyle & Co	39	1
Driscoll, John J	1184	4
Dry docks, to build at Algiers, La	251	7
Duffy, Eugenia and W. B	829	3
Dulin, A. F., estate of	1724	7
Dull, John C	1473	5
Duluth, Minn., to make port of immediate transportation in bond	1974	10
Dunbar, Charles F	881	3
Duncan, Andrew J., deceased	16	1
Dunfee, Nicholas	874	3
Dunham, John S	1157	4
Dunkirk, N. Y., to make port of immediate transportation	1845	7
Dunklee, William M., administrator	1251	4
Dunn, Philip G	1714	7
Durham, N. C., to erect public building	1123	4
Duvall, Tandy	784	3
Dyall, James R., widow of	1978	10
Dyer, Lucius L	1521	5
Dyer, Rachel	262	1
E.		
Eagle Fire Insurance Co., New York	1730	7
East Baton Rouge, La., *St. Joseph's Church*	1745	7

Subject.	Rept.	Vol.
Eastern Railroad Company, Massachusetts	1730	7
Easterly, Isaac	1281	4
East Marion, Long Island, N. Y., to establish life-saving station at	1689	7
Eastport, Me., to dispose of military reservation at	1230	4
East St. Louis, Ill., to erect public building	1946	7
Eckerson, George W	362	2
Eckington and Soldiers' Home Railway Company, to amend charter	190	1
Edwards, Emily	1375	
Edwards, W. W	1373	5
Edwards, Richard M	109	1
Edwards, Sarah Upton	1071	4
Eggleston, J. R	1603	5
Eicks, William	982	4
Eight hour law. (*See* Labor.)		
Eldridge, Daniel	1164	4
Eldridge, Hallem, deceased	1691	7
Elections, to print copies of bill of Fifty-first Congress for control of	1865	7
Eleventh Census. (*See* Census.)		
Elgin, Ill., to erect public building at	1505	5
Elizabeth, N. J., to erect public building	1744	7
Elliott, John R	1428	5
Ellis, Agnes P	897	3
Ellis Island, report of investigation of	2090	12
to print report on	2139	10
Elmira, N. Y., to erect public building	1848	7
Elsaser, John A	1336	5
Elzey, John	829	3
Emerson, Earnest C	1444	5
Employés, to grant leave to per diem	1036	4
Engelhardt, Margaretha	1935	7
Engineer Corps. (*See* Navy.)		
English Bayou, to erect bridge across, by Lake Charles Bridge and Road Company	942	3
Enlisted men. (*See* Navy.)		
Engs, Samuel F	596	2
Enlow, Thomas	977	4
Ennis, William B	129	1
Eppes, John W	564	2
Ericsson, John, estate of	1225	4
European commerce, to print copies of special report on	2134	10
European immigration, to print copies of special report made on	2133	10
to print report of commissioners on	1347	5
Evans, Samuel	1411	5
Executive Departments (*See also under respective heads*); to establish, of mines and mining	1003	4
Executive Mansion, paintings for	1293	4
F.		
Fagot, Emile, heirs of	832	3
Falkner, Nathan	1760	7
Falls, Jane	1985	10
Faringhy, Louis O	1499	5
Farley, John A	1280	4
Farnsworth, D. D. T	1670	7
Farquhason, Mrs. S. A	1785	7
Farron, Utah, for relief of inhabitants of	252	1
Fays, Eliza	420	2
Fels, Samuel	134	1
Fergusson, George B	69	1
Fernandina, Fla., to extend provisions of act for immediate transportation to	1218	4
Ferrell, Hugh	584	2

Subject.	Rept.	Vol.
Ferris, Adelia S	98	1
Ferris, John W	1589	5
Fictitious farm products. (*See* Options.)		
Field, Francis A	1814	7
Field, John A	654	2
Fields, John	2030	10
Filhiol, Hypolite, and others	45	1
Findlay, Ohio, to erect public building	1819	7
Finley, James A	716	3
Finn, John	2024	10
Finney, Abigail L	1349	5
Fischer, Neil	708	3
Fischer, Samuel O	55	1
Fish and Fisheries:		
To print report of Commissioner of, for 1889 '90 and 1890 '91	1344	5
Potomac River: to protect in	1953	7
Regulating fisheries	1350	5
Fitchburg, Mass., to erect public building at	1820	7
Fitzgerald, Michael J	1126	4
Flag. (*See* United States Flag.)		
Fleenor, John T	1909	7
Flesschert, Martha E	1497	5
Fletcher, Nathan, heirs of	600 1179	2 4
Fletcher, William	1244	4
Flick, Catherine	784	3
Florence Masonic Lodge, Florence, Ala	601	2
Florida:		
Claim of, for suppressing Indian hostilities	272	1
Claim of State of	273	1
Relative to issue of land patents in, under act of August 4, 1842	1975	10
Flowers, Elizabeth	661	2
Flynn, Margaret A	2081	10
Fog signals. (*See* Light.)		
Folders. (*See* House of Representatives.)		
Folding room. (*See* House of Representatives.)		
Folding room, to rent branch on Pennsylvania avenue	269	1
Fond Du Lac, Wis., to erect public building for	844	3
Food and drugs, adulteration of	914	3
Ford, John C	637	2
Forgey, James	1386	5
Foreign exhibitors. (*See* World's Columbian Exposition.)		
Forest reservations. (*See* Public Lands.)		
Fort Brown military reservation, to provide for purchase of	2050	10
Fort Fetterman, Wyoming, to restore to public domain	1942	7
Fort Greene (Brooklyn), New York, to erect monument to memory of victims of British prison ships	169	1
Fort McClary military reservation, to convey portion to Kittery, Maine, for school purposes	1439	5
Fort Miffin, Delaware, to authorize the sale of certain lands in the vicinity of	1944	7
Fort Monroe, Virginia, to extend time to complete hotel on reservation at	1746	7
Fort Montgomery military reservation, to grant St. Lawrence Railroad Company right of way across	477	2
Fort Wayne, Ind., for enlargement of military post at	1642	7
Fortier, Joseph	1806	7
Fortification appropriation bill	1258	4
Four hundredth anniversary, holiday on October 12	1527	5
Fourth of July claims. (*See* Claims.)		
Foxhall (steamer), American register for	1327	5
Franklin, William A., executor of J. B	1272	4

Subject.	Rept.	Vol.
Fraliex, Martin	660	2
Frazier, Stark	679	2
Frasuer, Eli	660	2
Frederick, Md	520	2
Freedley, Henry W	1203	4
Freeman, R. V	591	2
Fremont, Jessie Benton	1903	7
French, Henry S	82	1
French spoliation claims (also brig *Russell*)	1901	7
Freyre, Mrs. Luis	1465	5
Fritcher, Elizabeth L	1620	5
Frizell, James S	135	1
Frobel, Elizabeth D. and Anna S	140	1
Frost, John G	753	3
Frymire, George L	2064	10
Fuller, J. B	648	2
Fusilier, Corinne Perret	831	3
Future City (towboat), to submit claim to Court of Claims	704	3
Futures. (*See* Options.)		
G.		
Gage, E. Darwin	2033	10
Gainesville, McAllister and St. Louis Railway Company, granting right of way through the Indian Territory	386	2
Gainesville, Oklahoma and Gulf Railway Company, granting right of way through the Indian Territory	387	3
Gallagher, Charles	712 713	3 3
Gallagher, Thomas	1921	7
Gallard, Washington	116	1
Gallatin (U. S. Revenue Cutter), relief of officers and crew	1479	5
Gallipolis, Ohio, to erect public building at	1124	4
Gallott, Julia	832	3
Gamble, Hon. John R., to print eulogies delivered on	1128	4
Gardener, Frances P	1055	4
Gardiner, Me., to erect public building at	1100	4
Gardner, Fannie E	1585	5
Garrard, Charles T	592	2
Garrett, W. F	1281	4
Garrison, Nemiah	111	1
Garrot, Pierre	1428	5
Gassett, John W	578	2
Gatlin, Mary	491	2
Gay Head, Mass., to establish life-saving station at	188 1043	1 4
Geer, Martha A	1737	7
Gendron Iron Wheel Company	356	2
General deficiency bill	1666	7
Geographic names, to print copies of report of U. S. Board on	474	2
Geological Congress. (*See* International Geological Congress).		
Georgia, to amend act creating northern judicial district of	444	2
Gettysburg Battlefield Memorial Association, to furnish specimen of arms, etc., used by armies	1643	7
Gibson, Guy W	2065	10
Gibson, William F	238	1
Giddings, Napoleon B	227	1
Gilbreath, Simeon	1283	4
Gilfoil, Patrick	829	3
Gillies, Charles F	1329	5
Gillingwaters, J. E	573	2
Gillett, Theodore J., estate of	1386	5
Gittings, Samuel E	1423	5

Subject.	Rept.	Vol.
Glass, Henry, U. S. Navy	1250	4
Glassie, D. W. and Minna H	85	7
Glen Echo Railroad Company, to allow, to cross the Washington Aqueduct	1151	4
Goff, Ellen	529	2
Gold. (*See* Coins and Coinage.)		
Gomez, Edwin	398	2
Gonzales, Nasario	1073	4
Goodloe, G. C	904	3
Goodloe, Miriam, and others	1481	5
Goodwin, Miles	1051	4
Goodrich, A. E. and M. E	823	3
Gottschalk, C. V	1681	7
Govan, J. J	658	2
Government of the United States:		
For amending Revised Statutes relative to transfers and assignments of claims against	422	2
For repeal of section 856 of Revised Statutes relative to bringing suits against	801	3
Leaves of absence of certain per diem employés of	408 1036 1213	2 4 4
Relative to suits against	1706	7
Revival of suits in certain cases	383	2
To exclude political influence in employing laborers in service	821	3
To authorize sale of certain property of, at Pittsburg, Pa	1743	7
To authorize the Secretary of War to lease public property of	1817	7
To secure to veterans preference in appointment to public service of	1925	7
Relative to further extension of appropriations	2119	10
Government Printing Office, site for	687	3
to revise wages of certain employés in	1654	7
Grace, James	1194	4
Graham, Amelia	1981	10
Grain, standard of weight and classification of	1232	4
Grand Army of the Republic:		
Absence of members in District of Columbia from Government employ during encampment of 1892	1382	5
To accept invitation for committee of Congress to attend encampment	2086	10
To loan flags during encampment in Washington	499	2
Granberry, Joseph J	1765	7
Grant, Chester F	107	1
Graves, Mrs. C. U	78	7
Gray, James E	106	1
Gray, Jennie	2067	10
Great Lakes, relative to statistics of business of coasting trade on the	683	3
revenue cutters for	820	3
to connect with Hudson River by ship canal (survey)	1023	4
to establish aids to navigation on	1458	5
to promote navigation of, from head of, to ocean, etc	185	1
Gregory, James A	156	1
Greehill, Thomas C	650	2
Green, Ann M	1915	7
Green, Edman	1538	5
Greene, Annie M	2082	10
Greene, George S	1080	4
Greene Nathanael, to erect monument to, at Guilford court-house	472	2
Griffith, Martha	1238	4
Griffith, Maurice G	834	3
Grimmet, Mathew N	1271	4
Grisson, Sarah	653	2

Subject.	Rept.	Vol.
Grivot, Maurice, heirs of	376 1427	2 5
Groat, Abram	498	2
Groom, William G	139	1
Groves, John N	1165	4
Grow, Galusha A., to print proceedings on presentation of portrait	229	1
Grubb & Robinson	1751	7
Grugett, Andrew L	595	2
Gaugers. (*See* Internal Revenue.)		
Guidry, Lesant, heirs of	831	3
Guiman, Thomas	380	2
Gulic, Benjamin F	1583	5
Gullory, Martin	832	3
Gumberts, Henry, sr	1700	7
Gummo, John W	1813	7
Gutherie, Louisa S	720	3
H.		
Hackney, B. R	321	1
Hadley, E. D	1247	4
Hagan, Sarah A	958	4
Hagerstown, Md	746	3
Hahon, Eliza Jane	652	2
Hahn, Lydia E	861	3
Haigh, A. V	1042	4
Hall, Dwight	715 1492	3 5
Hall, Goff A	52	1
Hall, Jacob	1834	7
Hall, John S	2103	10
Hall, Minnie	531	2
Hall, Warren	53 1361	1 5
Hallam, John	1907	7
Halleck, Walter F., to appoint, as assistant doorkeeper	293	1
Haller, Jonathan	784	3
Ham, James S., heirs of	701 883	3
Hamersly, Lewis R	1334	5
Hamilton, Aaron V	493	2
Hamilton, Mrs. C. R., "Sister Angela"	1391	5
Hamilton, G. Dwight	375	2
Hamilton, Sophia J	1154	4
Hamm, John M	1277	4
Hammaker, W. S	2026	10
Hammon, Jacob, estate of	784	3
Hammond, Robert	1389	5
Hancock, William	1364	5
Handlin, William W	431	2
Hankins, Joel S	946	4
Hanna, George B	930	3
Hanson, Willis F	201	1
Harbor defenses, relative to, at San Diego, Cal	256	3
Harding, Francis E., estate of	1370	5
Harkins, Charles	1383	5
Harley, Elizabeth	1835	7
Harrington, Louisa	120	1
Harris, Martha A	1805	7
Harris, Thomas D., heirs of	103	1
Harrison, R. F	792	3
Harrison, William Henry, monument to	1217	4
Hart, Rodman	876	3

Subject.	Rept.	Vol.
Harter, Thomas O	849	3
Hartford, Conn., to make additions to public building at	1821	7
Hartman, Jesse P	315	1
Harvill, Mrs. L. J	651	2
Haskell, Lucy	415	2
Hastings, Nebr., public building	1098	4
Hastings, Rosanna	1736	7
Hatch, Ellen De Witt	2009	10
Hathaway, John R	721	3
Havens, Ezra S	114	1
Haxthausen, Joseph	89	1
Hayes, Samuel, deceased	1272	4
Hayes, Thomas G	1705	7
Hayford, Axel	69	1
Haynes, James J	1476	5
Haywood, Mrs. W. Dallas	661	25
Hazzard, George W	1566	5
Hazen, G. M., and others	934	3
Heard, James A	650	2
Heazlitt, John C	2007	10
Heberer, John	608	1
Heberlein, August, estate of	1270	2
Hebert, Eliza E	54	4
Hebrews. (*See* Russian Hebrews.)		
Hebron, Adeline L., estate of	649	2
Heinze, Herman	1625	5
Heiskell, Ann E	143	1
Helena, Mont., to establish military post near	623	2
to erect public building	1112	4
Henderson, Ky., to erect public building	1976	10
Henderson, Robert	1183	4
Henderson, Sarah L	40	1
Heninger, Louis	1446	5
Henkel, Philip	1199	4
Henry, George M	1811	7
Henry, William M	319	1
Henson, Hugh M	42	1
Hernandez, Vidal	745	3
Herr, A. H., estate of	463	2
Hershe, Benjamin F	200	6
Heuston, Charles E	1054	4
Hewett, Ellen	939	3
Hickman, M. T	1279	4
Hicks, David	1552	5
Higgin, Richard, estate of	658	2
Higgins, John M	605	2
Higgins, Thomas L	275	1
Hildreth, William H	36	1
Hill, Alexander, estate of	832	3
Hill, Joseph A	659	2
Hineline, Sophia Bruner	536	2
Hobbs, Thomas M	1724	7
Hoboken, N. Y., to erect public building	1794	7
Hoffman, R. H	322	1
Hogan, Joseph C	1550	5
Hogarty, William P	928	3
Holbrook, Julia	659	2
Holland, James L., estate of	1271	4
Hollcroft, Elijah P. T	91	6
Hollis, Mary	1994	10
Holloway, William H	1904	7
Holms, Eliza	1876	7
Holmes & Leathers	1701	7

Subject.	Rept.	Vol.
Holmes, Martha W	1412	5
Holmes, Prentice	960	4
Holstein, Anna M	1559	5
Holsten Female College	1272	4
Holt, C. G	661	2
Holt, John M	1281	4
Holt, Wiley, administrator of	661	2
Homestead, Pa., to investigate labor troubles at	1803	7
report for further time	2142	10
Honeycutt, Stephen M	850	3
Hood, Julia	1553	5
Hooper, James	872	3
Hoover, Benjamin, estate of	784	3
Hoover, James C	1281	4
Hopper, William, estate of	17	1
Hopper, W. A., administrator of David	649	2
Horn, Fritz	209	1
Hosack, W. S	378	2
Hospital Corps. (*See* Army.)		
Hot Springs, Ark., relative to relief of certain parties injured in laying off mountain reservation at	1547	5
to authorize sale of lot for school purposes	738	3
trustees of Trinity Church	893	3
Hot Springs reservation, to donate land for school purposes	1002	4
to include certain lot in	988	4
Houk, Leonidas C., to print eulogies on	364	2
House of Representatives, assignment of clerks to committees	1	1
relative to the fire in folding room of	1456	5
report of committee to investigate charges against conduct of members on floor	2132	10
folders, extension of time of employment of certain, in	2144	10
resolution for two special messengers for	248	1
resolution to rent branch folding room for	269	1
to establish an office of Congressional correspondence and department business	479	2
additional folders for	725	3
to print manual and digest of rules of	762	3
Howard, Leon	1596	5
Howard, Samuel	13	1
Howard, W. H	931	3
Howland, Juanita, administratrix of George W	1367	5
Howell, William C	1717	7
Hubbard, Mary Jane	1272	4
Hubbard, Royal M	1734	7
Hudson River, to allow New York and New Jersey Bridge Company to bridge	909	3
survey to connect with Great Lakes by ship canal	1023	4
Hughes, William	48	1
Hughes, William C	1200	4
Hughes, William H., administrator	43	1
Hugo, William H	873	3
Hull, Mary E	863	3
Humbolt Female College	1281	4
Hume, Isaac, estate of	784	3
Humphries, Julia A	149	1
Hundley, William T	782	3
Hunter, Samuel G	1064	4
Huntsville, Ala., Methodist Episcopal Church	264	1
Hurdle, Eunice	597	2

Subject.	Rept.	Vol.
Hurley, Edward	1773	7
Hurley, R. A	2088	10
Huse, Caleb	2034	10
Huson, W. H	401	2
Hutchison, Mary Isabella	456	2
Hutchison and Southern Railroad, to grant right of way through Indian Territory	3	1
Hyatt, Margaret	1560	5
Hydraulic mining. (*See* Mines and mining.)		
Hyland, Patrick	523	2
I.		
Idaho:		
Times and places for holding courts in	309	1
To investigate labor troubles in	2016	10
Illegal practices. (*See* Courts of the United States.)		
Illinois River, to allow bridge at Havana	1175	4
Ilwaco Railway and Navigation Company, to grant right of way to	1295	4
Immigration, European, to print copies of special report made on	2133	10
relative to proposed investigation of	411	2
report on investigation of, at Ellis Island	2090	10
to print report of	2139	10
to enforce laws relative to	1573	5
Import duties, agriculture, effect of, on (inquiry)	191	1
binding-twine, to remove from	502	2
chocolate, to regulate on	1436	5
cotton-bagging, cotton-ties, cotton gins, to remove from	503	2
silver-lead ores	1372	5
tin plate, etc	1040	4
wearing apparel, to regulate amount brought in free of	1537	5
wool, to admit free of	501	2
woolen goods, to reduce on	501	2
Indian Affairs, relative to deeds and other records of the Office of	1316	5
Indianapolis, Ind., to erect public building at	1676	7
Western Paving and Supply Company	22	1
Indian appropriation bill (disagreement)	1052	4
Indians, allotment of lands to certain tribes of	2040	10
annual appropriation bill	325	2
Cherokees, to ratify agreement as to Cherokee Outlet	1631	5
Chickasaws, to pay for certain lands	1661	7
Choctaws, to pay for certain lands	1661	7
Citizen Band of Pottawatomies	851	3
citizenship for, relative to	1130	4
Colville Reservation, agreement with, on	1035	4
Colville Reservation, Senate amendments	1525	5
Delawares, payments to certain, for right-of-way damages, etc	122	1
Delawares, relative to claim of	1554	5
eastern band of Cherokees, for relief	1871	7
Kickapoos, agreement with	1662	7
Miami, payment to	1380	5
Missourias, to carry out treaty stipulations with	1633	5
Otoe and Missouria Reservation, to adjust the sale of lands in late reservation of	1793	7
Puyallup Reservation, to confirm agreement granting Northern Pacific R. R. right of way through	1945	7
relative to judgment and decrees of the highest courts of Cherokee, Creek, Choctaw, Chickasaw, and Seminole tribes of	1437	5
relative to lands of Mission tribe of	691	3
relative to pensions for services of certain	818	3

Subject.	Rept.	Vol.
Indians, Shawnees, relative to claims of	1554	5
Southern Utes, to confirm agreement with, in Colorado	1205	4
Stockbridge and Munsees, for relief of	558	2
to carry out unexecuted stipulations with certain, of treaty of Buffalo Creek	1858	7
trespassers, to protect from	1530	5
Umatilla Reservation, to grant Blue Mountain Irrigation and Improvement Company right of way	1963	10
Uncompahgre Reservation, to change boundary of	1076	4
White Mountain Apache Reservation, to change west boundary of	1857	7
Yuma Reservation, to grant Yuma Pumping Irrigation Company right of way	1856	7
Indian Territory, carriage of passengers by railroads in	1460	5
granting Gainesville, McAlester and St. Louis Railway Co. right of way through	386	2
also to Gainesville, Oklahoma and Gulf Railway Co	787	2
to exclude liquors from	1866	5
to extend railroad laws of Arkansas to	1893	7
to grant right of way to Hutchison and Southern R. R.	3	1
to investigate cattle on Cheokee lands in violation of law	2085	10
to investigate condition of, with reference to admission as State	1927	7
to regulate mines and mining in	162	1
Ingram, Ira	1624	5
Interior Department, to send models, drawings, etc., to World's Columbian Exposition	1513	5
Internal Revenue, for relief of certain employés in, who rendered service before date of qualification	371	2
relating to punishment for violating, laws	159	1
International American Bank, to incorporate	985	4
International arbitration, to invite nations to hold congress for, at Chicago	1957	10
International Geological Congress, to print copies of proceedings, etc	1341	5
International Navigation Company, to authorize sale of certain lands to, in the vicinity of Fort Miffin, Del	1944	7
Interstate commerce:		
Relative to uniform bills of lading	1988	10
To amend act regulating, in relation to special agents of the commission	1457	5
To amend act so as to allow special rates to commercial travelers	186	1
Compilation of laws relative to, and labor	1960	11
Institutions of learning, relative to encouraging establishing of, at National capital, etc	864	3
Isgrig, Thomas C	412	2
Israel, Pleasant R	1355	5
Izard, Florimond	832	3
J.		
Jack, John A	2022	10
Jackson, George	197	1
Jackson, Miss., Roman Catholic Church	903	3
Jackson, Tenn., First Methodist Church	15	1
Jamestown, N. Y., public building	1507	5
Jean, Francis, sr	832	3
Jefferson County, Ky., for relief of certain citizens of	374	2
Jefferson, Thomas, to purchase certain manuscripts and correspondence of	1231	4

Subject.	Rept.	Vol.
Jennings, James C	1906	7
Jennings, R. L	2042	10
Jergins, Jesse J	1777	7
Jobe, Lavina	1711	7
Jockinck, Gustavus F	612	2
Johnnot, William, legal representatives of	1133	4
Johnson, Anna P	1235	4
Johnson, A. S., administrator of Thomas	318	1
Johnson, Emma	1303	4
Johnson, Gilman L	537	2
Johnson, Hiram, and others	19	1
Johnson, Joseph	1265	4
Johnson, Joseph B	1271	4
Johnson, Peter, and others	1336	5
Johnson, Richard W	1369	5
Johnson, Rinaldo and Ann E	890	3
Johnson, Wells	1912	7
Joiner, Nathan	1889	7
Joliet, Ill., public building	1107	4
Jones, Aquilla	14	1
Jones, Andrew J	338	2
Jones. Benjamin F	2011	10
Jones, Francis S., estate of	651	2
Jones, Huff	1659	7
Jones, Isaac, estate of	648	2
Jones, John	1271	4
Jones, John H	597	2
Jones, John H., heirs of	103	1
Jones, John H., legal representatives of	722	3
Jones, Thomas C	648	2
Jordan, R. D., guardian	1272	4
Jouett, James E	929 1641	3 5
Judd. Joanna	1618	5
Judgments. (*See* Courts of United States.)		
K.		
Kagwaich, Sophia	1880	7
Kale, Wilson	1396	5
Kane, James	875	3
Kansas, claims of citizens of	602	2
homes for soldiers in	892	3
to create a third judicial district in	571	2
Kansas City, Kans., to erect public building at	2130	70
Kansas City, Mo., to extend limit of cost of public building	1108	4
Kansas River, granting right to dam	1438	5
to allow dams across, in Shawnee County, Kans	557	2
Kaylor, Daniel	1281	4
Keach, Albert	357	2
Keady, William P	1842	7
Keating. Martin	879	3
Keefe, Michael, deceased	94	1
Keegan, Mary E	330	2
Keel, George	1552	5
Keeves, A. S	61	1
Keightley, William M	1731	7
Kelly, Dennis	1477	5
Kelly, Elizabeth	65	1
Kelly, Francis J	1402	5
Kelly, Mary Clare	1318	5
Kelly, Peter, estate of	334	2
Kelly, Sarah A	2099	10

Subject.	Rept.	Vol.
Kelsey, James E., and others	674	2
Kendall, William, representatives of	361	1
Kennedy, Anthony M	807	3
Kennedy, John W	838	3
Kennedy, Leonora J	832	3
Kennedy, Lydia M	769	3
Kennedy, Margaret	95	1
	1671	7
Kennedy, P. B	764	3
Kennedy, Thomas H	1929	7
Kennerly, Charles M	702	3
Kennock, Dora E	1883	7
Kent, Henry O	1750	7
Kentucky and Indiana Bridge Company, to sell a piece of land to	1452	5
Kentucky, for relief of Simpson County court of	812	3
to regulate terms of United States courts in	1971	17
Keokuk, Iowa, to pay expenses of paving around public building at	2000	10
Kergon, Thomas	335	2
Kerr, A. C	657	2
Kittery, Me., to convey to, a portion of Fort McClary Military reservation	1439	5
Keyser, Esther A	603	2
Keystone National Bank, to investigate failure of	230	1
Kibler, Josiah and Jeremiah	784	3
Kickapoos. (*See* Indians.)		
Kilbourn, Benjamin J	1954	10
Kimball, Jonathan	548	2
Kimmons, William M	597	2
King, J. D	765	3
King, Orris O	204	1
Kingsley, Sterling	1775	7
Kirchner, George K	606	2
Kirkham, Charles M. and Guy, relative to lands owned in part by	1789	7
Kirkpatrick, S	2074	10
Kirtley, James W	1716	7
Klamath River Reservation, relative to disposal of	161	1
Klauser, Emanuel	1522	5
Knapp, Andrew B	1602	5
Knight, Joseph	1428	5
Knowlington, William C	1308	5
Kolbe, Carl F	96	1
Kolter, Fredrick E	949	4
Koons, Anthony	34	1
Kootenai River, to authorize construction of bridge at Fry, Idaho	1940	7
Kouns, John, surviving partner of George L	1386	5
Kounty, W. J	763	3
Kramer, Andrew	681	2
Kramer, Matilda S., and Mary W	1163	4
Kulage, Joseph, heirs of	1033	4
L.		
La Ambra Silver Mining Company, suit against, etc	1143	4
Labell, Charles	657	2
Labels, to allow registry of	1860	7
Labor, Commissioner of, to print seventh annual report of	2143	10
compilation of State laws relating to, and interstate commerce	1960	11
convict, relative to employment of, on Government works	1312	5
eight hours for	1267	4
investigating sweating system of tenement house	164	1
on public works, for protection of, and of furnisher of material	2124	10

Subject.	Rept.	Vol.
Labor, protection of persons furnishing, on public works	1973	10
relative to eight-hour law on Government works and employment of convicts	427	2
relative to statistics on questions affecting, etc	514	2
to enforce laws relative to importation of contract	1573	5
to investigate troubles at Homestead, Pa	1803	7
to investigate trouble in Idado	2016	10
Laborers, to exclude political influence in employment of	821	3
La Fayette Female College, Colbert County, Ala	650	2
Lafayette statue, for dedication of	1644	57
Lafferty, James	658	2
Lafleur, Ben M	832	3
Lafleur, Jean Pierre	832	3
Lafleur, Marcelin	832	3
La Grange College	650	2
La Grange (Tenn.) Synodical College	29	1
Lake, Daniel, deceased	1047	4
Lake Erie, ship canal to connect with Ohio River	1416	5
Lake, Romantus	748	3
Lake Superior, to improve navigation from head of, to the sea	185	1
Lam, James, estate of	783	3
Lanahan, John D	1753	7
Landes, Abraham	901	3
Land grants, relief of certain settlers on (Arizona)	987	4
to amend act forfeiting certain railroad, extending time to settlers, etc	1555	5
to amend law of 1890 forfeiting certain	1426	5
unsurveyed, of Atlantic and Pacific Railroad in Arizona and New Mexico	992	4
Land Patents. (*See* Pacific Lands.)		
Landram, William J	1474	5
Lane, Henry	1769	7
Lane, James	1832	7
Lane, Lewis	221	1
Lang, D. M	899	3
Lang, Nathaniel	450	2
Lanier, N. B	649	2
Laredo, Tex., to establish subport of entry at	544	2
	1014	4
to erect public building at	1104	4
Large, William	395	2
Larkin, William J	1854	4
Larned, Helen	2116	17
La Rue, Maria D	783	0
Lastrapres, Victor	832	3
La Torrrette, Henry S	1029	3
Lavery, William	1471	5
Law, Mary E	1615	5
Lawhead, William, administrator of John	327	2
Lawrence, L. J	1280	4
Lazare, Jean Baptiste	329	2
Leach, Orinda	770	3
Leahey, Michael	636	2
Leave of absence, to grant thirty days to employés in Bureau of Engraving and Printing	408	2
to grant, to per diem employés	1036	4
	1213	4
Leduff, Alexis	832	3
Lee, A. S	281	1
Lee, Franklin	881	3
Lee, Hon. W. H. F., to print eulogies on	426	2
Lee, John	1298	4
Lee, Lucy Ann and Allen G	287	1

Subject.	Rept.	Vol.
Lefoldt, Julius	85	3
Leftwich, Gertrude A	28	1
Legg, A. C. (deceased)	1274	4
Legislative, judicial, and executive appropriation bill, report on	1526	5
Leibarger, Phebe, estate of	862	3
Leiper, James	1281	4
Lemelle, Charles, estate of	832	3
Lemelle, E.	1279	4
Lemelle, Leon	832	3
Lemelle, Ludger, estate of	832	3
Lemelle, Rigobert, estate of	832	3
Lement, Pierre	832	3
Leonard, Lois P	1083	4
Lernard, Helen	2116	10
Lewis, Abner D	658	2
Lewis, John W	1581	5
Lewis, Mary A	1224	4
Ley, John Henry	2078	10
	2083	10
Library of Congress, to exhibit books, etc., at World's Columbian Exposition	570	2
Lick Observatory, to set apart a tract of land for	252	1
Life-saving appliances. (*See* Steamers.)		
Life-Saving Service, to increase pay of keepers and crews in	508	2
Life-saving station, to establish, at Gay Head, Mass	188	1
	1043	4
East Marion, Long Island, N. Y	1689	7
Lights (including buoys, fog signals, etc.), to establish, etc., at—		
Butler Flats, New Bedford, Mass	187	1
Great Lakes (sundry)	1041	4
	1458	5
Martello Tower, Tybee Island, Georgia	916	3
Middle and Thunder Bay islands	1501	5
Tampa Bay, Florida	572	2
Tibbetts Point, New York	1648	7
Willamette River	1256	4
Lillard, B. (estate of)	1278	4
Lincoln, Nebr., to pay for paving around Government building at	1686	7
Linn, Jane	152	1
Lints, J. J	917	3
Lipscomb, James C	1268	4
Liquor traffic, Indian Territory, to exclude, from	1866	7
Litten, Julius B	1271	4
Little, John	786	3
Little Rock and Memphis Railroad Company	885	3
Little Rock, Ark., for improvement of public building and grounds at	1113	4
road to cemetery	1021	4
to establish military post near	757	3
Littleton, N. H., terms of United States courts for	442	2
Livers, Fanny S	1500	5
Livingston, Anne C	68	1
Locke, Sarah J	1738	7
Lockwood, Chauncey M	1604	5
Lofland, H	1246	4
Logan, John S., assignee	60	1
Logan, Mary T., widow of A. L	651	2
Logansport, Ind., to erect public building at	1823	7
Lomasney, Susan	1392	5
Long, Francis, and others	642	2
Long, Henry W	657	2
Long, James W	1140	4
Loudoun County, Va., for relief of loyal citizens of	1018	4
Louisville, Ky., to sell old custom-house building at	1106	4

Subject.	Rept.	Vol.
Lovelace, Emma C	241	1
Lovell, Louise I., and others	12	1
Lovell, Margaret Jane	1366	5
Lowe, William W	1127	4
Luchman, William	785	3
Luke, Elizabeth S	1718	7
Lusk, Soloman	434	2
Lutterloh, Thomas S	1723	7
	2037	10
Luttrell, Samuel	1961	10
Lutz, Andrew	141	1
Lutz, Morris	784	3
Lynch, John A	71	1
	1577	5
Lyon, Harry	1948	7
M.		
McBrayer, John H	1543	5
McCabe, Elizabeth	1241	4
McCabe, James	1699	7
McCammon, James	73	1
McCann, Michael	1191	4
McChesney, Mary D	2071	10
McClintock, Joseph B	148	1
McClure, Daniel	99	1
McColmant, Elisha	1027	4
McConnell, C. J	419	2
McCool, Wells C	466	2
McCormack, A. P., charges against	739	3
McDermott, Martin	1561	5
McDonald, Orin A	951	4
McDonald, Orin R	947	4
McDougall, George, representatives of	839	3
McElhose, James B	1704	7
McElvey, Harmon H	489	2
McFarland, James A	195	1
McGarrahan, William	245	1
	1587	5
McGeorge, Betsey	2063	10
McGloughlin, Virginia	329	2
McGuffee, G. V., sr	332	2
McKeesport, Pa., to erect public building at	2112	10
McKenzie, Lewis	165	2
McKinney, George W	1755	7
Mackintosh, James C	1535	5
McLaughlin, Ammon	1386	5
McLaughlin, Nelson	317	1
McLaughlin, Thomas A	948	4
McLean, Cornelius	594	2
McLean, Louise E	1272	4
McLean, Sarah K	1313	5
	1668	7
McLellan, Leander C	1594	5
McLemore, Sarah L., administratrix of John C	333	2
McLeod, Daniel, administrator of	797	3
McMahan, John	382	2
McMinnville (Tenn.) Cumberland Female Church	18	1
McMurdie, Maria	2038	10
McMurtrey, John	1271	4
McNairy, Hugh	126	1

Subject.	Rept.	Vol.
McNamara, Stephen	1275	4
McNeil, Jane	1740	7
McNeil, John C	661	2
McNeil, Quincy	644	2
Macon City (Mo.) Catholic church	1592	5
McPherson, George H	1226	4
Maddox, Laura E	886	3
Maddox, Margaret Virginia	970	4
Maddox, Martin	1722	7
Madison Female Institute	1050	4
Magill, Lydia A., administratrix	323	2
Maguire, Ellen	63	1
Mailloux, Belle Carlton	1085	4
Mail service, consolidation of third and fourth class matter	1311	5
free delivery for rural districts	1532	5
relative to letting of, in certain cases on star routes	690	3
subsidies for, on ocean	699	3
Malloy, John	1996	10
Mammoth Hot Springs, to erect post-office building for	1570	5
Manning, James	2019	10
Map of United States, distribution of, to public schools	1404	5
Marcy, Daniel	1702	7
Marine Corps, promotions in	1502	5
relative to pay and allowances of retired enlisted men in the	824 826	3 6
Marine Hospital Service, to improve hospital at Chicago	855	3
Marinette and Western Railroad Company, to grant right of way through Menomonee Reservation	347 692	2 3
Markham, Pleasant	585	2
Marklein, Charles	470	2
Marks, George A	2036	10
Marquette, Mich., to extend the immediate transportation act to	853	3
Marriage and divorce, relative to amendment of Constitution of the United States to give Congress jurisdiction over	1291 1290	4 4
Marsh, Samuel	151	1
Marshall, George	898	3
Marshall, Levin R., executors of	260	1
Marshall (Mo.) Christian Church	1065	4
Martello tower (Tybee Island), Georgia, to authorize use of, for signal station	916	3
Martin, Cyrus	554	2
Martin, John J., heir of Joseph	1279	4
Martin, Mary	2058	10
Martinsburg, W. Va.:		
St. Joseph's Catholic Church	211 467	1 2
German Evangelical Church	212	1
Methodist Episcopal Church	213 465	1 2
Maryland Fire Insurance Company, Baltimore	1730	7
Massillon, Ohio, to erect public building at	1124	4
Mastick, Henry, administrator of	1058	4
Mastin, Claude H	150	1
Matchett, William B	1859	7
Materials, protection of persons furnishing, on public works	1973	10
Matheny, Thomas M	396	2
Mathews, F	1195	4
Mathews, William D	72	1
Matlock, E. S., estate of	597	2
Matlock, John	2032	10
Matlock, Thomas J	2056	10
Maverick National Bank, to investigate	230	1

Subject.	Rept.	Vol.
Maxwell land grant, relative to alleged conspiracy in connection with	1824	7
Maynadier, William M	668 1640	2 5
Meales, Zaddock	661	2
Meaher, Timothy, administrator of J. M	651	2
Medical officers. (*See also* Army.)		
Relative to status of, who served in civil war	1067	4
Medical congress, to authorize the President to extend invitations to a pan-American	1791	7
Meeha, Catherine B	346	2
Melbourne Industrial Exhibition, for additional compensation to assistant commissioners	1378	5
Melvin, Fordyce R	2104	10
Memphis, Tenn., Overton Hotel Company	331	2
Menefee, Mary A	1772	7
Menominee Reservation, to grant Marinette and Western Railroad right of way through	347 692	2 3
Mercer, John	900	3
Merchants and Miners' Transportation Company	1728	7
Merchants' National Bank (Baltimore)	1730	7
Merchant vessels of the United States, to print list of	2140	10
Meredith, Frederick	494	2
Merriam, J. E	1475	5
Merritt, Edwin A	683	2
Merritt, Henry	1778	7
Messengers. (*See* House of Representatives.)		
Methodist Episcopal Church (South), relief of book agents of	20	1
Metoyer, Benjamin, (heirs of)	1326	5
Metropolitan Railroad Company, to amend act of 1891 relating to forfeiture in certain contingencies	1847	7
Metals, to print report on production of precious, in United States for 1891	1280	4
Meuillon, Alphonso	832	3
Meullion, Francis	329	
Meuillon, Lucien	832	3
Mexico, to promote closer trade relations with	1135	4
Mexican Gulf, Pacific and Puget Sound Railroad Company—		
To grant right of way through certain public lands and use of portions of reservation at Pensacola, Fla	1792	7
To allow to bridge certain rivers in Alabama	1319	5
Mexican war. (*See* War with Mexico.)		
Miami Indians, for payment to	1380	5
Michigan Cavalry, First Regiment of, expenses of	436	2
Middle and Thunder Bay islands	1501	5
Middletown, Md	747	3
Miles, William T	1053	4
Military Academy—		
Annual appropriation bill for	5	1
Appropriations for	925	3
Fixing rank of master of sword	1414	5
Military posts—		
For the enlargement of Fort Wayne, Ind	1642	7
Helena., Mont., to establish	623	2
Little Rock, Ark	756	3
Vermont (between Burlington and Highgate)	297	1
Military reservations—		
Eastport, Me., to dispose of	1230	4
For disposal of certain abandoned in Wyoming	1942	7
Fort Sidney, to grant to Sidney, Nebr., for cemetery purposes	1261	4
Oklahoma City, Okla	1020	4
Military telegraph lines	1005	4
Militia, relative to efficiency of	754	3

Subject.	Rept.	Vol.
Millard, Mary	1162	4
Miller, David	1146	4
Miller, James	662	2
Miller, Martha E	2062	10
Millet, Francis	359	2
Milley, S. B., administrator of estate of Mary E	784	3
Millican, William	878	3
Milliken, Samuel, heirs of	676	2
Mineral Lands (*see* Public Lands)	1415	5
Mines and Mining, hydraulic mining in California	937	3
to establish executive department of	1003	4
to regulate, in the Indian Territory	162	1
Minnesota, lands for public park at the headwaters of the Mississippi River in	694	3
Minors. (*See* War of rebellion.)		
Mission Indians. (*See* Indians.)		
Mission Indian Commission, relative to carrying out recommendation of	691	3
Mississippi, clerks in United States courts in	932	3
Mississippi River, to allow bridge at Davenport, Iowa	619	2
Moline, Ill	941	3
Quincy, Ill	912	3
South St. Paul, Minn	8	1
relative to willful injury of public works on	767	3
Missouri, relative to status of militia engaged in the civil war	695	3
time of holding courts for western district	765	3
Missouri River, to allow bridges at—		
Chamberlain, S. Dak	911	3
Dewitt, Mo	689	3
Omaha, Nebr	1688	7
St. Charles, Mo	910	3
Yankton, S. Dak	1176	4
Mitchell, James A	657	2
Mitchell, Katie P	64	1
Mitchell, Sophia G	652	2
Mixon, William	1650	7
Mobile and Girard Railroad Company	341	2
Mobile Marine Dock Co	46	1
Mobile River, to allow Chicago, Mobile and Gulf Ports Railroad Company to bridge	1685	7
Moffitt, Alexander	31	1
Mohan, Elizabeth	641	2
Monahan, Mary E	327	2
Monopolies, to protect trade and commerce from unlawful restraints and	1418	5
Monroe, Andrew J	2080	10
Monroe, Thomas C., estate of	833	3
Montana, to establish the southern judicial district of	1816	7
Montana Mineral Railway Company, to allow right of way across Yellowstone Park Reservation	654	3
Montgomery, Robert H	461	2
Montgomery, Hugh, deceased	1279	4
Montgomery, Mary Ann	1691	7
Montgomery, Oliva F	332	2
Montgomery, Pearson C	30	1
	1649	7
Monuments, Fort Greene, to memory of victims of British prison ships	169	1
Gen. David Morgan	471	2
Lafayette, dedication of statue of	1644	7
Maj. Gen. Nathanael Greene, at Guilford court-house	472	2
Père Marquette, statue of	990	4

Subject.	Rept.	Vol.
Monuments, Saratoga, N. Y	168	1
to erect, at Put-in-Bay to memory of Oliver Hazzard Perry and men	1214	4
William Henry Harrison	1217	4
William T. Sherman, pedestal	1459	5
Moody, B. F. & Co	279	1
Moonlight, Thomas	828	3
Moore, Stativa, estate of	330	2
Mordecai, J. Randolph, administrator of M. C	717	3
Mordecai, M. C., administrator of	717 1139	3 4
More, Robert	581	3
More, Stephen, administrator	17	1
Morehead City, N. C., Methodist church	1430	5
Morehead, Mary A	1306	5
Morgan, Benajah	1977	10
Morgan, Daniel, to erect monument to	471	2
Morgan, Robert E	77	1
Morgan, Thomas P., jr	1056	4
Morin, Catherine, heirs of	133	1
Morris, Jennie B	459	2
Morrison, James	1535	5
Morrow, William B	282	1
Mosely, William, jr	1695	7
Moss, William, estate of	703	3
Mount Sterling, Ky., to erect public building	1822	7
Mount Zion Society	439	2
Mower, Joseph A., legal representatives of	1307	5
Mullin, Mary P	1335	5
Mullins, Martin	1189	4
Muncie, Ind., to erect public building at	2108	10
Munday, G. W., administrator	832	3
Munsees. (*See* Indians.)		
Murder. (*See* Courts of United States.)		
Murdock, Emily	1371	5
Murphy, Dennis, sureties of	575	2
Murphy, James	649	2
Murphy, James, heirs of	1489	5
Murphy, J. J	330	2
Murphy, Susan S	1979	10
Murray, B. Jennie	775	3
Murray, Francis M	35	1
Murray, George W	718	3
Murray, Joseph	202	1
Musgrave, Emeline E	303	1
Myers, B. F	835	3
N.		
Nalley, Samuel M	302	1
Nash, Joseph C	85	1
Nashua, N. H., to erect public building at	1122	4
Nason, Ralph Waldo	1534	5
Natchez, Miss., to erect public building at	1168	4
National Academy of Sciences, to print extra copies of, for 1891	1345	5
National banks, relative to receivers of	922	3
required to redeem lost or stolen notes	1059	4
safety, control, etc., of national	233	2
National Capitol. (*See* Washington, D. C.)		
National cemetery, road near, Little Rock, Ark	1021	4
National Guard, additional artillery for	1059	4
National highway commission, to create	2045	10

Subject.	Rept.	Vol.
National Home for Disabled Volunteer Soldiers:		
Pensioners in	1840	7
Relative to appointment of officers for	250	1
To use Fort Hayes reservation for	892	3
To fill vacancies in board of managers of	505	2
National Museum, to print report for 1891	2141	10
National Safe Deposit Company, to change incorporate name	175	1
National sanitarium, to establish in northern New Mexico or southern Colorado	1463	5
Naturalization, amending laws relative to	697	3
Naval appropriation bill, report on	621	2
Senate amendments	1453	5
Naval Observatory, to change management of	926	3
Navy, Engineer Corps	1491	5
engineers, to terminate reduction in, of	440	2
enlisted men, number of	1504	5
enlisted men, to authorize retirement of certain	2051	10
Marine Corps, to regulate promotions in	1502	5
moiety claims of officers and crews in the	242	1
Navy Department, contracting for supplies, etc	1417	5
detail of assistant to Chief of Bureau of Navigation of	1989	10
Neal, W. H., estate of	1280	4
Neal, William M	2115	10
Nebraska, to reimburse for repelling Sioux invasion	1541	5
ordnance stores and supplies for	2120	18
Neck, George, sr	832	3
Neet, John S., jr	225	1
Neidlinger, Charles V	1007	4
Nevada, Indian war claims of citizens of	117	1
war of rebellion, claim of	254	1
New, Adelia	1445	5
Newark, N. J., to make a port of immediate transportation	272	1
New Bedford, Mass., granting certain lands to, for a public park	1398	5
New Bedford (Butler Flats), Mass., light and fog-signal station near	187	1
Newell, Jane, estate of	1281	4
Newell, Jesse C	1333	5
New Haven, Conn., National New Haven Bank	1493	5
	667	2
Newkirk, Isabella W	2106	10
New Madrid location survey, to confirm patent	1542	5
Newman, James M	524	2
New Mexico, additional land office in	1399	5
admission of	736	3
Capt. Céran St. Vrain's company of volunteers	1435	5
land titles in	1253	4
relative to law of timber cutting on public lands in	1379	5
to issue bond to restore capitol building	1575	5
unsurveyed lands in grant of Atlantic and Pacific R. R., in	992	4
New Orleans, La., Union National Bank	86	1
for relief of Odd Fellows' Hall, association of	402	2
Newport News, Va., to erect public building at	1103	4
Newton (Mass.), First National Bank of	2014	10
New York, claim growing out of war of 1812	220	1
payment of duties on arms	1034	4
terms of United States courts in northern district of	1013	4
New York city, for relief of certain port wardens in	1779	7
night inspectors at port of	2027	10
to erect custom-house	1742	7
New York, Lake Erie and Western Railroad Company	1484	5
Nickles, John	705	3
Nichols, Frank H., estate of	243	2

Subject.	Rept.	Vol.
Niles, Harriet E	2005	10
Nindeman, William F. C	981	4
Nixon, Henry C	661	2
Noble, Lester	480	2
Noble, Noah, heirs of	92	1
Noble, Sarah A	1451	5
Noland, William H	1280	4
Nonresident pensioners. (*See* Pensions.)		
Norfolk and Western Railroad Company, to allow to extend line into District of Columbia	1628	5
Norman, Seaton	1619	5
	1952	7
North Dakota, correcting descriptions of certain public lands granted to	385	2
relief of settlers on certain lands in	1870	7
to divide judicial district of	983	4
to publish report on climatic features of	2147	10
Northern Pacific Railroad, to confirm agreement for right of way through Puyallup Indian Reservation	1945	7
Northrup, Anson	2066	10
Northrup, Charles	1270	4
Noyes, Henry T., contested-election case of	968	4
Noyes *vs.* Rockwell, contested-election case of	968	4
Nutt, Julia A., executrix	1800	7
O.		
Oakland, Cal., public building at	843	3
Oakley, E. C., administrator	1280	4
O'Brien, Michael	1153	4
O'Brien, Oliver	2035	10
O'Brien, William D	314	1
Ocean mails service. (*See* Mail Service.)		
Ockerson, Daniel J	283	1
O'Connor, Mary	1301	4
Odle, H. D	1798	7
Office of Indian Affairs. (*See* Indian Affairs.)		
Ogdensburg, N. Y., to make port of immediate transportation	235	1
Oglesby, L. T	1433	5
Ohio River, to authorize a bridge across, between Cincinnati, by Rapid Transit Bridge Co	2079	10
relative to a ship canal to connect with Lake Erie	1416	5
Oklahoma City, Okla., military reservation at	1020	4
Oklahoma Territory, relative to district courts of	944	4
funding county debts of	991	4
reserving certain lands in, from entry	1095	4
additional supreme judge for	1413	5
relative to carriage of passengers by railroad in	1460	5
to extend the railroad laws of Arkansas to	1893	7
amend act for temporary government of, relating to courts	2054	10
Okolona, Miss., Independent Order of Odd Fellows	648	2
Old Dominion Steamship Company	673	2
	1902	7
Oleomargarine, to subject to laws of States	913	3
Oliver, Aaron J	100	1
Oliver, James M	1406	5
O'Neal, Jacob	1873	7
Options, to define and tax	969	4
Orbison, Josiah B	1844	7

Subject.	Rept.	Vol.
Oregon, war of rebellion claim of	254	1
to establish sundry lights, etc., in State of, on Willamette River	1256	4
Oregon and Washington Bridge Company	816	3
O'Reilly, Thomas P	643	2
Ores, to remove duties on silver-lead	1372	5
Orr, George A	1222	4
Osage River, to allow bridge across, at Warsaw	618	2
Osgood, James H	979	4
O'Shea, P. T	649	2
Otis, George K., representatives of	1726	7
	2044	10
Otis, Samuel	69	1
Ottstotts, Fredrick	599	2
Overton Hotel Company	331	2
Owen, Isham T	1496	5
Owen, L. D	1931	7
Oyster beds, relative to damage done to, in Raritan Bay	2050	10
P.		
Pacheco, Juan	1159	4
Pacific coast, revenue cutter service for	819	3
Paillett, Hilliare, estate of	832	3
Palmatier, Eliza T	1879	7
Palmer, N. F., jr., & Co	1774	7
Pan-American Medical Congress, to authorize the President to extend invitations to	1791	7
Pangborn, Sarah L	1645	7
Pansy (light-house steamer), to remit penalties on	986	4
Parish, J. W	430	2
Parker, D. S	1195	4
Parker, Mary F	1304	5
Parker, Rebecca V., estate of	832	3
Parks. (*See* Public Parks.)		
Parsons, Marrilla	1434	5
Patented articles, protection of innocent users of	1826	7
Patents, revising and amending statutes relating to	1494	5
Patterson, David K	648	2
Paterson, N. J., public building at	1102	4
Patton, S. K. N	180	1
	313	1
Payne, James, & Co	75	1
Payne, John Howard, heirs of	355	2
	1478	5
Payne, William B	259	1
Pedersen, Mathias	1201	4
Peeden, Martha J., administratrix of Haywood Peeden	1271	4
Peirce, Charles H	1297	4
Peirce, Eliza B	1837	7
Pellitier, E. W	661	2
Pemberton, Fannie	306	1
Pensacola, Fla., for relief of Escambia Lodge, No. 15, F. and A. M. of	565	2
Pensacola Terminal Company, right of way over naval reservation	1503	5
Pensions, amendment to laws to place Navy on footing with Army in matter of disabilities	1292	4
amendment to pension laws relating to disabilities in the Navy	1292	4
appropriations for	525	2
army nurses	802	3
deafness, to increase rate for	1920	7
declarations, relative to execution of, in claims	559	2
deficiencies in appropriations	1580	5

Subject.	Rept.	Vol.
Pensions, disloyalty, bill to amend Revised Statutes relating to those dropped from the rolls for	614	2
evidence, relative to cases of	627	2
for widows, and minor children of soldiers disabled while in service	1260	4
Indian wars, survivors of certain	818	3
laws, for the revision of	1853	7
Mexican war, to grant increase of, in certain cases	1959	10
nonresidents	1509	5
rate, intermediate, for specified disabilities	515	3
rate of, to establish an intermediate, for specific disabilities	1264	4
Soldiers' Homes, relative to ceasing payment of	1840	7
to allow examinations of papers by claimant of	1531	5
to increase rate for total deafness	1263	4
widows, restoring right of, to	2068	10
widows and children, to amend laws, relative to, of soldiers who died in service	500	2
Pension laws, for a general revision, etc., of	1853	7
Pension Office, to investigate management and methods of	257	1
report on investigation of, part 1	1868	8
part 2	1868	9
to print report on investigation of	2145	10
Pennsylvania, to reimburse, for money paid militia service in civil war	167	1
to reimburse, for damages to citizens by armies	166	1
claim growing out of war of 1812	220	1
Père Marquette, to accept statue of, in House of Representatives	990	4
Perkins, George H	1498	5
	1899	7
Perry, Oliver Hazard, to erect monument to, at Put in Bay	1214	4
Perry, O. H., administrator of George W. Perry	1801	7
Peters, John L	613	2
Petwood, Brightwood and Tacoma Railway Company, to incorporate	1289	4
Philadelphia, Pa., improvement of harbor of	622	2
Philbrook, Mrs. C. E	1448	5
Phillips, James B	1466	5
Phillips, John C	1890	7
Phillips, O. P	388	2
Phipps, Ellis P	740	3
Pierce, William	1754	7
Pine Bluff, Ark., to erect public building at	2126	10
Pinkerton Agency, relative to investigation of	1376	5
Pitcher, William, heirs of	69	1
Pittsburg, Fort Wayne and Chicago Railroad Company, to establish division line between lands of, and of United States	842	3
Pittsburg, Pa., to authorize sale of property of United States at	1743	7
Pitzer, T. T	1409	5
Plant, George H	511	2
Platte City, Mo., Presbyterian church and Masonic lodge	1031	4
Platte County, Mo	1796	7
Plattsmouth, Nebr., to erect public building at	2052	10
Pneumatic Dynamite Gun Company, New York, to remit penalties on cruiser *Vesuvius*	1680	7
Pneumatic postal communication, report on memorial to investigate	2049	10
Point Pleasant, W. Va., Methodist church	827	3
Poitevent, William T	1652	7
Poland, Alexander, estate of	394	2
Pollard, A. W	128	1
Ponder, D. K	778	3
Pope, Daniel T., and others	1025	4

Subject.	Rept.	Vol.
Porche, Louis V	1428	5
Ports of delivery, to make, at—		
Council Bluffs, Iowa	507	2
Des Moines, Iowa	852	3
Ports of entry (including subports, etc.), to establish at—		
Laredo, Tex	544 1014	2 4
Punta Gorda, Fla	1210	4
Superior and Ashland, Wis	999	4
Velasco, Tex	545	2
West Point, Va	443	2
Ports of immediate transportation, to extend act making, to—		
Fernandina, Fla	1218	4
Ogdensburg, N. Y	235	1
Newark, N. J	272	1
St. Augustine, Fla	1539	5
Port wardens, for relief of certain, in New York and Brooklyn	1779	7
Postage, relative to free, on Government correspondence	696	3
semiweekly and triweekly publications	1951	7
to make uniform, on third and fourth class matter	1311	5
Postal clerks. (*See* Railway Mail Service.)		
Postal laws, to amend, relative to official envelopes for business of the Government	696	3
Postal notes, for issue of fractional	1314	5
Letter-carriers, to increase, etc., pay of	1725	7
Postmasters, appointment of fourth-class	1403	5
relative to expenses of convention of, in Washington, D. C	1006	4
Postmaster-General, to investigate connection with Pneumatic Postal Company	2049	10
Post-Office appropriation bill, report on	1135	4
Post-Office Department, appropriation to pay salary of superintendent of free delivery	9	1
Potomac River, relative to fish, etc., in	1953	7
Potomac Steamboat Company	512	2
Pottawatomies. (*See* Indians.)		
Pottsville, Pa., public building	1508	5
Poullain, Mildred P	417	2
Powel, Sarah A	327	2
Prather, Thomas T	1156	4
Prator, John D	1776	7
Pratt, Albert J. (administrator)	1385	5
Precious metals. (*See* Metals.)		
President, resolution to print copies of annual message of	308	1
also of Chile message	307	1
proposed constitutional amendment relative to election of, etc	543	2
to amend act providing for succession in cases of death or removal	160	1
to print report of Senate, Forty-third Congress, on mode of election of	800	3
Price, Rodman M	1693	7
Price, William B	1090	4
Priddy, John D. (heirs of)	1958	10
Priest, Mathew S	435	2
Pringle, William N	1810	7
Printing, relative to, binding, etc., of public documents	1092	4
Pritchard, Catherine M	399	2
Private Land Claims, Court of	908	3
to amend act establishing Court of	1173	4
Protestant Episcopal Cathedral Foundation, to incorporate (in the District of Columbia)	1900	7
Providence, R. I., public-building site	1121	4

Subject.	Rept.	Vol.
Public buildings, to erect at (also increased costs and sites)		
Allentown, Pa	2109	10
Alpena, Mich	1849	7
Ann Arbor, Mich	1110	4
Anniston, Ala	1097	4
Baltimore, Md	2111	10
Bedford City, Va	1118	4
Boise, Idaho	1111	4
Bradford, Pa	1999	10
Bridgeport, Conn	2110	10
Brockton, Mass	1116	4
Brunswick, Ga	1105	4
Buffalo, N. Y	1117	4
Camden, N. J	1506	5
Cheyenne, Wyo	1119	4
Chicago, Ill	567	2
(post-office, etc.)	566	2
Clinton, Iowa	1099	4
Cumberland, Md	1096	4
Decatur, Ill	1528	5
Durham, N. C	1123	4
East St. Louis, Ill	1946	7
Elgin, Ill	1505	5
Elizabeth, N. J	1744	7
Elmira, N. Y	1848	7
Findlay, Ohio	1819	7
Fitchburg, Mass	1820	7
Fond du Lac, Wis	844	3
Gallipolis, Ohio	1124	4
Gardiner, Me	1100	4
Hartford, Conn	1821	7
Hastings, Nebr	1098	4
Helena, Mont	1112	4
Henderson, Ky	1976	10
Hoboken, N. J	1794	7
Indianapolis, Ind	1676	7
Jamestown, N. Y	1507	5
Joliet, Ill	1107	4
Kansas City, Kans	2130	10
Kansas City, Mo	1108	4
Keokuk, Iowa, pavements	2000	10
Laredo, Tex	1104	4
Lincoln, Nebr	1686	7
Little Rock, Ark	1113	4
Logansport, Ind	1823	7
McKeesport, Pa	2112	10
Mammoth Hot Springs	1570	5
Massillon, Ohio	1124	4
Mount Sterling, Ky	1822	7
Muncie, Ind	2108	10
Nashua, N. H	1122	4
Natchez, Miss	1168	4
Newport News, Va	1103	4
New York City	1742	7
Oakland, Cal	843	3
Paterson, N. J	1102	4
Pine Bluff, Ark	2126	10
Plattsmouth, Nebr	2052	10
Pottsville, Pa	1508	5
Providence, R. I	1121	4
relative to planning and construction of	1078	4
Reno, Nev	2127	10
Rome, Ga	2121	10

Subject.	Rept.	Vol.
Public buildings, to erect at (also increased costs and sites)—Cont'd.		
St. Paul, Minn	1252	4
Salem, Oregon	845	3
Selma, Ala	1572	5
Spokane, Wash	1109	4
Suspension Bridge, N. Y	1115	4
Tampa, Fla	1569	5
Waterbury, Conn	1120	4
Wilkesbarre, Pa	1101	4
Public documents, to provide for printing of:		
Bankrupt bill	2075	10
Bureau of Animal Industry, eighth and ninth annual reports of	1339	5
Bureau of Ethnology, eleventh and twelfth annual reports	1338	5
Civil Service Commission, eighth annual report	1337	5
Coast and Geodetic Survey, report of superintendent	1342	5
Commissioner of Fish and Fisheries, report of, for 1889-'90 and 1890-'91	1344	5
Congressional documents, list of	1340	5
Diseases of the Horse	726	3
Election bill, to print 10,000 copies	1865	7
Eulogies on F. B. Spinola	2095	10
Eulogies on Hon. E. K. Wilson	2093	10
Eulogies on Hon. John R. Gamble	1128	4
Eulogies on Hon. Leonidas C. Houk	364	2
Eulogies on Hon. W. H. F. Lee	426	2
European immigration, report on	1347	5
Geographical names, report of United States Board on	474	2
International Geological Congress	1341	5
Manual and Digest of Rules of House of Representatives	762	3
Monument at Yorktown, proceeding of formal presentation	1343	5
National Academy of Sciences	1345	5
Precious metals, production for 1891	1208	4
President's message relative to Chile	307	1
Proceedings on presentation of portraits of ex-Speakers Randall and Grow	229	1
Relative to printing, binding, distribution, etc., of	1092	4
Revised Statutes, to continue publication of	1867	7
Senate report of Forty-third Congress on election of President, etc	800	3
Statistical abstract for 1891	2094	10
Survey made pursuant to act of March 2, 1891	2135	10
Tables showing contents of Annals of Congress, Congressional Debates, etc	365	2
Public lands, amending forfeiture act on railroad grants to extend time to actual settlers	1555	5
arid, for reclamation of	569	2
Arizona, settlers in Tucson district	1664	7
building-stone lands, relative to entry of	1204	4
contest, to extend right of, to heirs in cases	483	2
correcting description of certain, granted to Territory of Dakota	385	2
declaring meaning of act to repeal timber-culture laws	1495	5
desert-land law, to fix price of	1993	10
forest reservations, relative to request for information of in California	2096	10
mineral, for examination and classification of certain	1415	5
mineral lands, for examination and classification of certain	1416	5
North and South Dakota, relief of settlers on certain	1870	7
Oklahoma, reserving certain, from entry	1095	4
Otoe and Missouria Reservation, for adjustment of certain sales on, of	1793	7

Subject.	Rept.	Vol.
Public lands, patents, extending jurisdiction of Court of Claims in	1706	7
patents, relative to, of lands settled in Florida under act of August 14, 1842	1975	10
protection of settlement rights	1485	5
relative to abandoned military reservation of, in Wyoming	1942	10
stone lands, relative to disposal of	482	2
swamp land grants, to adjust claims of States under	1571	5
swamp grants, to adjust, fix limitation for filing, etc., claims for	296	1
timber, relative to proofs of purchase	1943	7
timber cutting, amending statutes at large so as to include New Mexico and Arizona in the law relating to	1379	5
timber lands, relative to disposal of	482	2
to open to settlement, acquired from Cheyenne and Arapaho Indians	478	2
Wisconsin, sale of timber on certain, in	1077	4
Public parks, to establish in Minnesota	694	3
Public works, protection of persons furnishing labor and materials for	1973 2124	10 10
Publications, postage on certain semi and triweekly	1951	7
Punta Gorda, Fla., sub-port of entry at	1210	4
Put-in-Bay, to erect monument to commemorate battle of Lake Erie	1214	4
Putman, Eunice	2098	10
Puyallups. (*See* Indians.)		
Pyer, Charles G	1804	7
Q.		
Quarles, W. A	1009	4
Quigg, Caroline E	184	1
Quinn, William H	370	2
Quintard, George W	1049	4
R.		
Rabot, Jean Baptiste	832	3
Railroads, couplers and safety appliances	1678	7
relative to combination of the Philadelphia and Reading and other	1630	5
special rates by, to commercial travelers	186	1
tickets interchangeable 5,000 miles	1694	7
Railroad land grants. (*See* Land grants.)		
Railway mail service, salaries of clerks in the	624	2
Raleigh, N. C	1697	7
Ramey, Jonathan	488	2
Ramsey, F. Y	90	1
Randall, Samuel J., to print proceedings on presentation of portrait	229	1
Randleman, John H	144	3
Randolph, J. P	609	2
Ransom, Dunbar R	950 1766	4 7
Raritan Bay, to examine and report on claims of damages done to oyster beds	2053	10
Rather, James (and others)	1281	4
Ray, (*née* Willet), Vienna	784	3
Raymond, William G	1070	4
Rea, John A. (estate of)	1287	4
Read, Edith S	1558 1886	5 7

Subject.	Rept.	Vol.
Read, Henry A	453	2
Read, John B	372	2
	779	3
Reardon, Mary Catherine	532	2
Receivers (*See* National Banks).		
Record. (*See* Congressional Record).		
Record of volunteer armies. (*See* War Department.)		
Red Cross Association, to protect insignia of	1790	7
Redfern, Joseph and Eliza	1611	5
Redmond, Karoline C	1425	5
Red River, Louisiana, to authorize construction of a bridge across by Rapides Bridge Company	1851	7
Red River of the North, to allow bridge across	1687	7
Redemption. (*See* Treasury.)		
Reed, David	806	3
Reed, James, jr	1353	5
Reed, Thomas B	1192	4
Reese, Charles	2070	10
Reeves, Clement	2117	10
Reeves, George W., estate of	659	2
Reeves, Louisa J	1623	5
Regan, James	996	4
Regan, James, U. S. Army	288	1
Registers and receivers, fees of	989	4
Reilly, John	995	4
Reik, Emily	1739	7
Reiner, Herman and Herman, jr	1613	5
Reitz, Jonas F	1336	5
Renfro, Nancy E	224	1
Reno, Nevada, to erect public building	2127	10
Reserve fund. (*See* Treasury.)		
Restle, Leger	330	2
Revenue Cutter Service, construction of cutter for San Francisco	384	2
cutters for Pacific coast	819	3
cutters for the Great Lakes	820	3
to transfer to the Navy Department	1607	5
Revised Statutes, to continue publication of	1867	7
	1955	7
Revolution. (*See* American Revolution.)		
Rhea, John L., executor of Samuel	358	2
Rhodes, John, and wife	144	1
Rice, Fred	2128	10
Rice, Margaret M	1158	4
Rice, W. H	650	2
Richards, Amelia A	400	2
Ries, Lillie	1084	4
Riggs, Druzilla J	2097	10
Riggs, Reuben	1713	7
Rio Grande River, to allow Continental Bridge Company to bridge	617	2
to bridge at Brownsville	1016	4
Ripley, E. W., estate of	832	3
Risk, Abasha	1887	7
Ritchie, Cordelia A	796	3
Rivers and harbors, appropriations for	967	4
messenger for Committee on	473	2
Senate amendment	1468	5
Roach, Benjamin, estate of	332	2
Roach, John, assignees of	710	3
	1048	4
Robb, William N	1544	5
Roberts, George F	1551	5
Roberts, John M	1911	7
Roberts, Julia S	2060	10

Subject.	Rept.	Vol.
Robertson, Anthony	784	3
Robertson, Mary H. S	51	1
Robinson, John W	1134	4
Rock Creek Railroad Company, to amend charter of	759	3
Rockefellow, B. F	1732	7
Rockwell, Hosea H., contested-election case of	968	4
Rogers, Benjamin F	244	1
Rogers, Charles E	1727	7
Rome, Ga., to erect public building	2122	10
Ronaldson, Sarah L	1234	4
Ropes Pass, Texas, to authorize construction of piers, jetties, etc., at	1675	7
Root, Elihu	700	3
Root, Leroy	2100	10
Rose, John G	1991	10
Rose, Merritt	154	1
Ross, Mary Ann	938	3
Ross, Mary L	1063	4
Rother, Frank	1582	5
Rowe, Philip C., heirs of	1548	5
Rowena (scow), for relief of owners of	381	2
Rowland, Thomas F	709 1964	3 10
Rudd, J. C	142	1
Rules, to print Manual and Digest of	762	3
Rural districts, free delivery of mails in	1432	5
Russell (brig)	1925	7
Russell, Charles T	663	2
Russell, Gerald	1368	5
Russell, Sarah A	2105	10
Russell, William	1833	7
Russian Hebrews, expression of sympathy for, inquiry of status of	1177 1000	4 4
Ryan, David	1546	5
Ryan, M. B	1193	4
S.		
Sadler, James Garret	1066	4
St. Augustine, Fla., to extend provisions of act for immediate transportation of dutiable goods	1539	5
St. Charles (Mo.) College	215 1181	1 4
St. Clair, Archie	1727	7
St. Lawrence Railroad Company, to grant right of way across Fort Montgomery reservation	477	2
St. Lawrence River, to allow bridge by St. Lawrence Railway Co	1625	5
St. Louis and Mississippi Valley Transportation Co	704	3
St. Paul, Minn., to erect public building at	1252	4
St. Vrain, Ceran, relief of New Mexico company of mounted volunteers of	1435	5
Salem, Oregon, to erect public building at	845	3
Salinas, Miguel	123	1
Salisbury, Susan T	1155	4
Sammis, John S	145	1
Sanborn, John Jay	1653	7
Sanders, David B., estate of	27	1
Sanders, John C., administrator	1278	4
Sanders, W. W., deceased	832	3
Sanderson, Louis G	1995	10
San Diego, Cal., to obtain lands for site of harbor defense at	656	3
Sandusky, Ohio, to extend privilege of immediate transportation of dutiable goods to	173	1
Sanford, Martha Ann	658	2

Subject.	Rept.	Vol
San Francisco, Cal., construction of revenue cutter for	384	2
Sanitarium. (*See* National Sanitarium.)		
Santa Fe, Prescott and Phœnix Railway Company, to grant right of way through Whipple Barracks reservation	1591	5
Saratoga, battle of, to erect monument to commemorate	168	1
Sarsfield, David	2023	10
Sartori, Louis C	2092	10
Saulpaw, George W	1986	10
Saunders, Edwin E., estate of	1386	5
Saunders, Henry S	300	11
Sauppe, Valentine	88	1
Savannah (Mo.) Christian Church	1030	4
Sawtelle, Charles G	1606	5
Scanlan, Mrs. W. H	830	3
Schachleiter, George W	1091	4
Schaumburg, James W	344	2
Schaumburg, James W., representatives of	1405	5
Schellhous, R. A	1182	4
Schillinger patents, for relief of owners of	24	1
Schlapp, August	198	1
School buildings. (*See* Claims).		
Schools of mines, to assist Colorado to support	841	3
Schwartz, Christian	1310	5
Scott, Austin A	199	1
Scott, John	859	3
	2028	10
Scott, John D	659	2
Scott, Samuel	649	2
Scott, Mrs. W. A	1280	4
Scott, W. T., and others	882	3
	1284	4
Scoville, W. T	1386	5
Seabird (barge), American register for	1330	5
Seaver, Nettie N	2057	10
Secretary of War, to authorize to lease public property	1817	7
Segoura, Raphael	1812	7
Selby, Arthur P	1069	4
Selma, Ala., to erect public building at	1577	5
Selma and Meridian Railroad Company	23	1
Semmler, Louis	1309	5
Senators, amendment to Constitution relative to election of, etc	368	2
Sessions, Franklin	648	2
Setzer, Henry	373	2
Shacklett, H. W	604	2
Shade, George	1336	5
Shadel, Henry A. heirs of	1386	5
Shaffer, C. M	214	1
	464	2
Sharman, Marion Kern	954	4
Sharp, Louise B	1557	5
Shaw, Clara V	1388	5
Shawnees. (*See* Indians.)		
Shea, Honora	1928	7
	2069	10
Shear, Lansing	1752	7
Sheely, Ann	829	3
Sheehy, Michael	207	1
Sheetz, Samuel, estate of	784	3
Shelby, J. C	1221	4
Sheldon, Thomas F	2003	10
Sherman, Jane A	1667	7
Sherman, Thomas W., estate of	1385	5
Sherman, Gen. W. T., pedestal for statue of	1459	5

Subject.	Rept.	Vol.
Shierry, Jane	57	1
Shimmins, William M	1226	4
Shipley, E. R	25	1
Ship Canals. (*See* Canals.)		
Ships, to give American registry to—		
Foreign built	966	4
Steamer China	1634	5
Certain high-grade	927	3
Shirley, Mrs. A	84	1
Shirley, Mrs. A., representatives of	1657	7
Short, Hatcher and Hiram	563	2
Sibley, Henry H. and Charlotte K., heirs of	21	1
Sidney, Nebr., to grant military reservation to, for cemetery	1261	4
Sigler, Phebe	1758	7
Signal, etc., stations. (*See* Lights.)		
Sigur, John A	831	3
Silk culture, to encourage	1360	5
Silver (*see* Coins and Coinage)	249	1
Silver-lead ores. (*See* Ores).		
Simerley, Mary E	672	2
Simmons, Abraham B	1759	7
Simmons, H. S., estate of	1272	4
Simmons, J. W	659	2
Simmons, Margaret C	1784	7
Simpson, Cassa	1271	4
Simpson County court of Kentucky, for relief of	812	3
Simpson, Isaac S	2125	10
Sims, James	418	2
Singleton, H. C., estate of	1281	4
Sinnott, P. B	685	2
Sipp, Mary A	857	3
Sisson, Henry	952	4
Skeels, Laura E	437	2
Skinner, John H	538	2
Skrainka Construction Company	58	1
Slaughter, Ann Mercer	2084	10
"Slums," investigation of, of cities	572	2
Small, Michael P	920	3
Smallwood, Howard F	781	3
Smith, A. J	651	2
Smith, Alfred	240	1
Smith, Caroline	1032	4
Smith, Caroline A	808	3
Smith, David D	1864	7
Smith, Dudley D	1386	5
Smith, Edward S., deceased, accrued pension of	421	2
Smith, Eliza	546	2
Smith, Grafton F., administrator of David	277	1
Smith, James	1781	7
Smith, James W	783	3
Smith, Mary C	1556	5
Smith, Meridy	822	3
Smith, Nancy C	597	2
Smith, Nimrod J	1827	7
Smith, Sarah E. B	1647	7
Smith, Sarah F	1881	7
Smith, Sarah G	110	1
Smith, Stephen D	1086	4
Smith, Thomas J	118	1
Smith, T. E	61	1
Smith, Vasti	661	2

Subject.	Rept.	Vol.
Smith, William, and others	352	2
	1772	7
Smith, William G	2072	10
Smith, W. J	1480	5
Smitherman, Edward	1807	7
Smithsonian Institution, to print report for 1891	2141	10
to send certain articles to World's Columbian Exposition	1512	5
vacancies in Board of Regents	4	1
Smyser, Jacob H	1185	4
Snavely, Charlotte	547	2
Snyder, James A., executor of Jacob	783	3
Society of American Florists, to incorporate	476	2
Society of the Colonial Dames of America, to incorporate	256	1
Solair, Fannie	829	3
Soldiers (missing in war of rebellion), for relief of heirs	924	3
Soldiers' Homes. (*See* National Home for Disabled Volunteers.)		
Somerville, Hiram	304	1
South Carolina, for a May term of United States court in	1788	7
payment of certatn moneys to	1262	4
South Dakota, correcting description of certain public lands granted to	385	2
relief of settlers on certain lands in	1870	7
to publish report on climatic features of	2147	10
to regulate holding of terms of United States courts in	1846	7
Southerland, Obe	449	2
Southern Railroad Association	1579	5
Southern Utes (*see* Indians)	1205	4
Soutter, William R., deceased	980	4
Sowers, Frank S	1429	5
Spain, invitations to King and Queen of, to attend World's Columbian Exposition	1514	5
Sparks, D. M., estate of	651	2
Spaugh, Robert	265	1
Spaulding, R. A., administrator	305	1
Speck, David, estate of	783	3
Speigelburg, Wilhelm	1658	7
Spencer, William C	299	1
	1665	7
Spinola, Francis B., to print copies of eulogies on	2095	10
Spokane, Wash., to erect public building at	1109	4
Springfield, Mass., for sale of certain land at	1789	7
Spring Garden National Bank, to investigate	230	1
Sprinkle, S. D	1351	5
Squan Inlet, to reconvey lands selected for light	965	4
Stack, Thomas	1490	5
Staley, Noah	337	2
Stanley, David S	1245	4
Stanley, William	1422	5
Stanley, William Oscar	1741	7
Starn, Levi	553	2
Starr, Eliza K	1242	4
States, claims of, against United States for defense expenses	552	2
interest on funds expended by	555	2
examination of claims of certain, and city of Baltimore, etc	220	1
State canals. (*See* Canals.)		
Statistical Abstract, to print additional copies of, for 1891	2094	10
Steamers, extending act relating to life-saving appliances on	568	2
Stevens, Harriet W	2055	10
Steward, Charles B	1518	5
Stewart, Andrew, contested-election case of	367	2
Stewart, Electa Ann	1646	7

Subject.	Rept.	Vol.
Stewart, James	1187	4
Stiers, Ivy	1449	5
Stiff, Martha	1387	5
Stimson, Hiram	258	1
Stirman, Thomas V	157	1
Stivers, Charles B	1767	7
Stockbridges. (*See* Indians.)		
Stockwell, John	953	4
Stoddart, Alexander	261	1
Stolle, H. C. (and others)	837	3
Stone lands. (*See* Public lands.)		
Stork, Conrad	785	3
Stovall, J. H	48	1
Stover, Abraham	783	3
Street, Harlow L	353	2
Street railways. (*See* District of Columbia.)		
Strickland, Jesse H	217	1
Subports of entry. (*See* Ports of entry.)		
Subtreasuries, report on bill to establish system of	2143	10
Sugar trust, relative to information, etc., requested of Attorney-General	1286	4
Sugg, L. D	393	2
Suits against the Government. (*See* Government.)		
Sullivan, John	218	1
Summary court. (*See* Army.)		
Summer, Margaret	649	2
Sunday, to prevent sale of ice on, in District of Columbia	1440	5
Sundry civil appropriation bill, report on	847	3
Superior, Wis., subport of entry at	999	4
Supervising Architect. (*See* Treasury Department.)		
Supplies, purchase and contract for	1417	5
Sureties, to accept corporations as	1229	4
Survey made pursuant to act of March 2, 1891, to print report of	2135	10
Surveyors of customs. (*See* Customs service.)		
Suspension Bridge, N. Y., to erect public building at	1115	4
Sutter, John A	1255	4
Swart, Barnett T	656	2
Swamp lands. (*See* Public land.)		
Swartz, David	784	3
Sweating system. (*See* Labor.)		
Sweet, Chester B	787	3
Swift, Mary A	1061	4
Swigart, Sally M	771	3
Swoope, Susannah P	80	1
T.		
Tabor, H. A. W	1733	7
Taggart, C. C	1012	4
Taggers tin. (*See* Tin plate.)		
Talbott, Jacob J	1269	4
Talkington, Isaac W., estate of	481 1655	2 7
Tallapoosa (U. S. steamer), for relief of sufferers by wreck of	2043	10
Tallapoosa River, to allow Alabama Grand Trunk Railroad to bridge	1939	7
Tampa, Fla., to erect public building at	1569	5
Tampa Bay, Florida, additional aids to navigation in	572	2
Tapp, W. J., & Co	93	1
Tariff, report on effect of, on agriculture (*See* also Import duties.)	2114	10
Tarkington, William C	1614	5
Tate, Sally Sterrett	147	1
Tatin, Jean Marie	832	3

Subject.	Rept.	Vol.
Tatnall, John R. F	6	1
Taylor, A. K., administrator George W	1748	7
Taylor, George W., estate of	783	3
Taylor, Ida A	1621	5
Taylor, James, heirs of	1487	5
Taylor, Jane, estate of	1724	7
Taylor, Jane L	74	1
Taylor, Jesse C	1026	4
Taylor, John W	1461	5
Taylor, Stewart	1190	4
Taylor, William E., and others	936	3
Taylor, William H	2010	10
Teed, Theodore, heirs of	1763	7
Telford, Mary Jewett	428	2
Tendroy, Indian chief	1830	7
Tennessee River, to allow bridge at Whiteside Precinct, Ala	1174	4
to allow bridge by St. Louis and Birmingham Railroad Company at Clifton	620	2
to bridge at Deposit, Ala	1663	4
to bridge near Knoxville	1037	7
Terne plate. (*See* Tin plate.)		
Terrace. (*See* Capitol.)		
Terrell, D. J., deceased	1420	5
Test, Bertha	957	4
Texas, to change time of holding court in eastern district of	231	1
Thomas, Edward	680	2
Thomas, George H., to grant permission to exhibit portrait of, in the Capitol	1923	7
Thomas, Madison A	1905	7
Thompson, A. C	126	1
Thompson, George W	192 784	1 3
Thompson, James M	497	2
Thompson, Lewis, executors of	997	4
Thompson, Lodusky	1882	7
Thompson, Thomas	840	3
Thorne, John D	146	1
Thornhill, French W	1562	5
Thurmond, Harrison	590	2
Tibbetts Point, N. Y., to establish fog signal at	1648	7
Tice, Isaac P., estate of	919	3
Tillman, Francis	1057	4
Timber-culture laws, to amend act repealing	915	3
to declare meaning of law for repeal of	1495	5
Timberlake, S. R	1280	4
Timber lands. (*See* Public lands.)		
Tin plate, duties on	1040	4
Tobacco, to amend section 3355 of Revised Statutes relating to manufactures of	2046	10
to repeal requirement on raiser to furnish statement of production and sales of leaf	940	3
Tolson, John J	1432	5
Tompkins, Julia S	1161	4
Topeka Water and Electric Power Company, to allow, to dam Kansas River	1438	5
Torrence, Anna	1617	5
Torrey, Joseph, legal representatives of	1133	4
Townsend's library, to authorize purchase of	1707	7
Trade and commerce. (*See* Commerce.)		
Trade-marks, relative to registration of	410 1860	2 7
Tradewell, F. A	707	3
Transcripts. (*See* Courts of United States.)		

Subject.	Rept.	Vol.
Trask, Mrs. E	978	4
Travilla, Robert	286	1
Travis, M. M	348	2
Travis, W. C. M	130	1
Traweek, Mrs. E. L	657	2
Treasury, report on resolution relative to reserve fund of, and redemptions, etc	1780	7
Treasury Department, salary of Supervising Architect	1211	4
salary of assistant and chief clerk in office of Supervising Architect of	1212	4
Trenton (U. S. ship), refund of duty on wreckage	724	3
Treutlen, John R., heirs of	369	2
Trickey, Mary E	678	2
Trimble, Mary E	1862	7
Trinity River, Texas, to open to navigation	1841	7
Truex, David L	416	2
Trusts, to print copies of report of subcommittee on	2138	10
Tucker, Mary	1878	7
Tucker, Thomas	1998	10
Tucker, T. M., estate of	327	2
Turley, William H	1486	5
Turner, George	316	1
Turner, Granville R	1916	7
Turner, Margaret	56	1
Turner, Zeph	534	2
Tuttle, Mary	2088	10
Tuttle, Montgomery M	1395	5
U.		
Umatillas. (*See* Indians.)		
Uncompahgre Reservation. (*See* Indians.)		
United States. (*See also* Government of the United States.)		
settlement of account of State of Arkansas with	693	3
United States courts. (*See* Courts of the United States.)		
United States flag, to prevent desecration	541	2
United States map. (*See* Map of United States.)		
University of California, to set apart a tract of land for use of	253	1
Urgent deficiency appropriation bill	963	4
Senate amendments	1331	5
Urgent deficiency appropriations	526	2
Utah, an additional justice for the supreme court of	232	1
exhibit of, at World's Columbian Exposition	993	4
local government for	943	3
Uline, C. S	1324	5
Ulrich, Ernest	1771	7
Underwood, John C	1276	4
Unsell, David, estate of	43	1
Unterleiter, Henry	1442	5
Urban, Anna M	1296	4
Urquhart, C. Augustus	397	2
Utter, Joseph G	1266	4
V.		
Valleau, Sarah J	832	3
Vandalia (United States ship), refund of duty on wreckage	724	3
Vandiver, Robert R	76	1
Van Fossen, John	178	1
Van Nest, Sarah L	2004	10
Van Vleck, B. J	790	3
Van Vliet, Evalyn N	1918	7
Vauquat, Louis	329	2

Subject.	Rept.	Vol.
Vaughn, Jennie	183	1
Vaughan, W. H	155	1
Vawter, Jesse K	1552	5
Velasco, Tex., subport of entry at	545	2
Venard, Mary	1305	5
Verdin, Romain, estate of	831	3
Vermont, to establish military post in, between Burlington and Highgate	297	1
Vessels (merchant of United States), to print list of	2140	10
to allow fifteen days at port for, laden with certain articles "for orders"	1129	4
Vessels (steam), to amend Revised Statutes relative to regulation of	1897	7
	1972	10
Vesuvius (cruiser), to remit penalties on	1680	7
Veterans, to secure preference of, in the public service	1925	7
Vice-President. (*See* President.)		
Vignes, Polona	832	3
Virginia, claim growing out of war of 1812	220	1
to authorize construction of telegraph line on coast of	1044	4
Volunteer armies, to preserve the records of the	895	3
Volunteers. (*See* War of the rebellion.)	728	3
Von Haake, Adolph	1567	5
Vosburg, Harriet T	2059	10
Vose, John W., heirs of	884	3
Voss, Elizabeth	1160	4
W.		
Wachner, S.	2073	10
Wackerly, Joseph	1087	4
Wade, Jennie Y.	448	2
Wages, to continue report on, by Joseph D. Weeks	1315	5
Waggoner, Sarah J	1639	5
Wagnon, Thomas D	582	2
Waite, C. S	2020	10
Walker, Dabney, widow of	887	3
Walker, John	1597	5
Walker, Hon. Joseph H., relative to expunging a portion of remarks of, from *Record*	799	3
Walker, Julius	659	2
Walker, T. J	1280	4
Wallace, David R., deceased	2021	10
Wallace, Thomas	658	2
Walls, Joseph L	780	3
Walter, Amanda G	1588	5
Walters, Joel A	1908	7
Ward, Daniel	587	2
Ward, Enoch P	458	2
Ward, Jane A	298	1
Ward, W. H	1196	4
	1332	5
War Department, contract for supplies, etc	1417	5
record and pension division in	895	3
to print report of board of ordnance and fortification for use of	1346	5
to provide for preservation and custody of records of the volunteer armies in	895	3
Ware, Henry	44	1
Ware, Perry G	973	4
War of the rebellion, amending records in cases of assumed names	732	3
bounties to volunteers who were promoted after reënlistment	733	3
bounty, to facilitate settlement of claims for	484	2

Subject.	Rept.	Vol.
War of the rebellion, desertions, to extend time of act for removal of charge of in certain cases	1381	5
disabilities, removing certain, when command was not up to maximum, etc	730 731	3
equalization of bounties	729	3
medical officers who served in	1067	4
Michigan Cavalry, expenses of First regiment of	436	2
muster and pay of certain officers and enlisted men of volunteers	728	3
pay and bounty, to facilitate settlement of claims for	484	2
pay of minors discharged from Army	896	3
pay of soldiers who were mustered as officers after March 3, 1865	1015	4
pensions for widows and minor children of soldiers killed or disabled in	1260	4
relative rank and pay of certain soldiers who served in	734	3
relative to granting honorable discharge in certain cases	735	3
relief for heirs of missing soldiers	924	3
War of 1812, collection, custody, and arrangement of records of	1357	5
War with Mexico, relative to granting honorable discharge in certain cases	735	3
to grant increase of pensions in certain cases	1959	10
Warren, Alexander	1394	5
Warren County, Miss., relief of sufferers by overflow	1419	5
Warren, John	496	2
Warrior River, Alabama, to authorize Montgomery, Tuscaloosa and Memphis Railroad to bridge	1682	7
Warrender, Samuel	577	2
Warterfield, P. F., deceased	1131	4
Washington City. (*See* District of Columbia.)		
Washington and Georgetown Railroad Company	1039	4
Washington and Great Falls Electric Railway Company, to incorporate	1627	5
Washington, Lewis W., deceased	469	2
Wasson, Richard F., legal representatives of	1278	4
Waterbury, Conn., to erect public building at	1120	4
Watkins, Nancy	650	2
Watson, William M	1719	7
Wearing apparel, to regulate amount brought in duty free	1537	5
Weaver, Tilghman, heirs of	1672	7
Webb, William S	650	2
Webb, William W	451	2
Webster, Amelia R	804 1523	3 5
Webster, I. B	113	1
Wedgwood, William W	121	1
Weeks, Joseph D., continuation of report on wages by	1315	5
Weights, standard of, for grain	1232	4
Weil, Benjamin	1142	4
Wells, Edwin A	877	3
Wells, Eugene	856	3
Wells, James, heirs of	1692	7
Welsh, William	354	2
Welty, Charles W. E	539	2
Welty, Joseph H	2102	10
Werner, Charles J	1938	7
Wesson, Randolph	81	1
West, Bluford, estate of	182	1
Westmoreland, Mary N	1271	4

Subject.	Rept.	Vol.
Grivot, Maurice, heirs of	376	2
	1427	5
Groat, Abram	498	2
Groom, William G	139	1
Groves, John N	1165	4
Grow, Galusha A., to print proceedings on presentation of portrait	229	1
Grubb & Robinson	1751	7
Grugett, Andrew L	595	2
Gaugers. (*See* Internal Revenue.)		
Guidry, Lesant, heirs of	831	3
Guiman, Thomas	380	2
Gulic, Benjamin F	1583	5
Gullory, Martin	832	3
Gumberts, Henry, sr	1700	7
Gummo, John W	1813	7
Gutherie, Louisa S	720	3
H.		
Hackney, B. R	321	1
Hadley, E. D	1247	4
Hagan, Sarah A	958	4
Hagerstown, Md	746	3
Hahon, Eliza Jane	652	2
Hahn, Lydia E	861	3
Haigh, A. V	1042	4
Hall, Dwight	715	3
	1492	5
Hall, Goff A	52	1
Hall, Jacob	1834	7
Hall, John S	2103	10
Hall, Minnie	531	2
Hall, Warren	53	1
	1361	5
Hallam, John	1907	7
Halleck, Walter F., to appoint, as assistant doorkeeper	293	1
Haller, Jonathan	784	3
Ham, James S., heirs of	701	3
	883	
Hamersly, Lewis R	1334	5
Hamilton, Aaron V	493	2
Hamilton, Mrs. C. R., "Sister Angela"	1391	5
Hamilton, G. Dwight	375	2
Hamilton, Sophia J	1154	4
Hamm, John M	1277	4
Hammaker, W. S	2026	10
Hammon, Jacob, estate of	784	3
Hammond, Robert	1389	5
Hancock, William	1364	5
Handlin, William W	431	2
Hankins, Joel S	946	4
Hanna, George B	930	3
Hanson, Willis F	201	1
Harbor defenses, relative to, at San Diego, Cal	256	3
Harding, Francis E., estate of	1370	5
Harkins, Charles	1383	5
Harley, Elizabeth	1835	7
Harrington, Louisa	120	1
Harris, Martha A	1805	7
Harris, Thomas D., heirs of	103	1
Harrison, R. F	792	3
Harrison, William Henry, monument to	1217	4
Hart, Rodman	876	3

Subject.	Rept.	Vol.
Wisconsin, for sale of timber on certain lands in	1077	4
relative to western judicial district of	2	1
to change times of holding United States courts in	176	1
Wisdom, D. M	1480	5
Wise, Curtis P	181	1
Wise, Mary A	1564	5
Witherby & Gaffney	1703	7
Wolcott, Sabra A	1300	4
Wolf, Edmund, heirs of	438	2
Wolfe, William	682	2
	1249	4
Wolfson, Caroline L., widow of Jacob A	1279	4
Wood, Gerard, heirs of	404	2
Wood, William P	836	3
Woodbridge, William E	177	1
	1393	5
Woodbury, Harriet	1884	7
Woods, Samuel, legal representatives of	1410	5
Woodson, Daniel	880	3
Woodson, R. B	1696	7
Woodson, Tarleton, heirs of	1632	5
Woodson, Warren A	1081	4
Woodward, William S	485	2
Wool, to place on free list	501	2
Woolen goods, to reduce duties on	501	2
Worcester, Alfred J	226	7
Workman, Thomas C	210	1
World's Columbian Exposition, articles from Smithsonian Institution	1512	5
branch of a national bank at	1136	4
detail of Army officers for	236	1
	1470	5
exhibit of Utah at	993	4
expenditures of	1454	6
foreign exhibitors, relative to bringing in of laborers of	2123	10
information relative to expenditures, etc	10	1
invitations to King and Queen of Spain to attend	1514	5
invitations to Presidents of American republics and governors of American colonies to attend	1515	5
Library of Congress, to exhibit	570	2
loan of certain articles to	1511	5
relative to dedication of buildings of	2091	10
report of committee to investigate expenditures of	1454	5
report on bill to make loan to	1660	7
to protect foreign exhibitors	626	2
to ratify act of Arizona for exhibit at	423	2
to send drawings, models, etc., to, from Department of the Interior	1513	5
Worthington, Betsey	486	2
Worthington, Hugh, heirs of	556	2
Wright, Henry H	203	1
Wright, Julia P	1761	7
Wyatt, James H	457	2
Wyoming, terms of United States courts at Evanston	984	4
Wyoming, United States ship, for relief of crew	360	2
Wyrick, James R	280	1
Wytsinger, John	1271	4

Subject.	Rept.	Vol.
Grivot, Maurice, heirs of	376 1427	2 5
Groat, Abram	498	2
Groom, William G	139	1
Groves, John N	1165	4
Grow, Galusha A., to print proceedings on presentation of portrait	229	1
Grubb & Robinson	1751	7
Grugett, Andrew L	595	2
Gaugers. (*See* Internal Revenue.)		
Guidry, Lesant, heirs of	831	3
Guiman, Thomas	380	2
Gulic, Benjamin F	1583	5
Gullory, Martin	832	3
Gumberts, Henry, sr	1700	7
Gummo, John W	1813	7
Gutherie, Louisa S	720	3
H.		
Hackney, B. R	321	1
Hadley, E. D	1247	4
Hagan, Sarah A	958	4
Hagerstown, Md	746	3
Hahon, Eliza Jane	652	2
Hahn, Lydia E	861	3
Haigh, A. V	1042	4
Hall, Dwight	715 1492	3 5
Hall, Goff A	52	1
Hall, Jacob	1834	7
Hall, John S	2103	10
Hall, Minnie	531	2
Hall, Warren	53 1361	1 5
Hallam, John	1907	7
Halleck, Walter F., to appoint, as assistant doorkeeper	293	1
Haller, Jonathan	784	3
Ham, James S., heirs of	701 883	3
Hamersly, Lewis R	1334	5
Hamilton, Aaron V	493	2
Hamilton, Mrs. C. R., "Sister Angela"	1391	5
Hamilton, G. Dwight	375	2
Hamilton, Sophia J	1154	4
Hamm, John M	1277	4
Hammaker, W. S	2026	10
Hammon, Jacob, estate of	784	3
Hammond, Robert	1389	5
Hancock, William	1364	5
Handlin, William W	431	2
Hankins, Joel S	946	4
Hanna, George B	930	3
Hanson, Willis F	201	1
Harbor defenses, relative to, at San Diego, Cal	256	3
Harding, Francis E., estate of	1370	5
Harkins, Charles	1383	5
Harley, Elizabeth	1835	7
Harrington, Louisa	120	1
Harris, Martha A	1805	7
Harris, Thomas D., heirs of	103	1
Harrison, R. F	792	3
Harrison, William Henry, monument to	1217	4
Hart, Rodman	876	3

INDEX TO HOUSE REPORTS.

DIVISION 2.

SUBJECT OF REPORTS AND THE COMMITTEE WHICH MADE THEM.

Subject.	Rept.	Vol.
COMMITTEE ON ACCOUNTS—		
Bell, Thomas P	1323	5
Clerks to House committees	1	1
Closets and corridors in the terrace	1325	5
Committee on Accounts, annual clerk for	752	3
Committee on Agriculture, messenger to	2128	10
Committee on Rivers and Harbors, messengers for	473	2
Fifteen additional folders	725	3
Folders after adjournment	2144	10
Halleck, Walter F	293	1
Journal clerk, assistant	1223	4
Pay of stenographer and assistant clerk to Committee Investigation Pension Bureau	1322	5
Rent of branch folding room	269	1
Special messengers	248	1
Uline, C. S	1324	5
COMMITTEE ON AGRICULTURE—		
Agriculture, deficiency appropriations for Department of	519	2
Agriculture, effect of the present tariff on	191 2114	1 10
Alaska, domesticated reindeer in	1093	4
American Florists, Society of	476	2
Angora goats, importation and maintenance of	1094	4
Appropriation for Department of	1586	5
Classification and grading of wheat, etc	1232	4
Commerce between the several States, etc	913	3
Dealing in fictitious farm products	969	4
Food and drugs, adulteration of	914	3
Forest reservation in California	2096	10
Horse, diseases of the	727	3
Silk culture	1360	5
COMMITTEE ON APPROPRIATIONS—		
Census deficiency bill	432	2
Columbian Exposition, inquiry concerning, of	10	1
expenditures at	1454	6
District of Columbia appropriation bill	495 1167	2 4
Eleventh Census	9	1
Fortification appropriation bill	1257	4
General deficiency bill	1666	7
Legislative, executive, and judicial appropriation bill	1526	5
Pension appropriation bill	525	2
Pension deficiency bill	1580	5
Sufferers by overflow in Warren County, Miss	1419	5
Sundry civil appropriation bill	847	3

Subject.	Rept.	Vol.
COMMITTEE ON APPROPRIATIONS—Continued.		
Temporary provision for expenditures of the Government	2119	10
Urgent deficiency appropriation bill	526	2
	963	4
	1313	5
COMMITTEE ON BANKING AND CURRENCY:		
Columbian Exhibition, Branch National Bank	1136	4
International American Bank	985	4
National banks, better control of, and to promote safety of	233	1
National banks, receivers of	922	2
Redemption of national-bank notes stolen from or lost by banks of issue	1019	4
COMMITTEE ON CLAIMS:		
Albott, D. P	61	1
Ames & Detrick	906	3
Arctic (Hawaiian bark), owners and crew of	918	3
Armstrong, Edward S	706	3
Backman, Charles	1595	5
Baltimore, Md., Merchants and Miners' Transportation Company	1728	5
Barnett, Martin A., widow and heirs of	719	3
Beckley, R. D	1596	5
Betts, Nicholas & Co	97	1
Billings, J. M	1197	4
Bishop, Joshua	2025	10
Blackburn, W. Jasper	1464	5
Blaisdell, Albert	741	3
Blum, Emile M	1609	5
	1828	7
Bond, William A., Co., and others	1519	5
Bonfoey, Davis B., and Emma W., heirs of	1829	7
Bonfoey, Davis B., heirs of	794	3
Bonner & Merriman	766	2
Booth, James C., deceased	379	5
Bothu, Frank	1582	3
Bouldin, Briscol B	742	2
Brant, Charles T	1721	7
Brice, William, & Co., and others	2018	10
Brown, John J	1227	4
Bryan, C. B., & Co	809	3
Bryan, William J	1198	4
Bucknam, George C	1524	5
Burks, John M	2017	10
Burrows, Frank J	677	2
Burton, Patrick P. (widow of)	1584	5
Cairo, Illinois	1524	5
Calahan, Andrew J	795	3
Capers, Francis T	1692	7
Capron, Horace, estate of	664	2
Catonsville, Md., St. Timothy's Church	789	3
Chamberlain, Charles H	686	2
Chambers, Thomas	1062	4
Charleston, S. C., Citadel Academy	1720	7
Cheatham, Adelicia	263	1
Cheatham, Adelicia, legal representatives of	974	4
Chester, Walter B., schooner, owners of	1610	5
Clarkson, James	2039	10
Cogswell & Co	2013	10
Cohen, Jacob I., administrator	1139	4
Continental Fire Insurance Company of New York *et al*	1730	7
Council Bluffs, Iowa	793	3
Cowles, Calvin J	930	3

Subject.	Rept.	Vol.
COMMITTEE ON CLAIMS—Continued.		
Crawford, James S	905	3
Culver, Catherine P., heirs of	889	3
Dabney, Simmons & Co	414	2
Davidson County, Tenn	675	2
Davis, Jacob R., heirs of	1549	5
Day, Nancy E	1600	5
De Leon, Agnes and Maria	2015	10
Denham, Merril	1797	7
Dennis, James H	1601	7
Dispatch (U. S. ship), sufferers by wreck of	1749	7
Doyle, P. H	1226	4
Dunbar, Charles F	881	3
Eggleston, J. R	1603	5
Ericsson, John, estate of	1225	4
Ferris, John W	1589	5
Finn, John	2024	10
Florida, claim of State of	273	1
Frèmont, Jessie Benton	1903	7
French spoliation claims	1901	7
Freyre, Luis	1465	5
Future City, towboat	704	3
Gallatin, revenue cutter, officers and crew of	1497	5
Gendron Iron Wheel Company	356	2
Gonzales, Nasario	1073	4
Goodloe, G. C	904	3
Grace, James	1194	4
Griffith, Maurice G	834	2
Guineau, Thomas	380	5
Gulic, Benjamin F	1583	2
Gumberts, Henry, sr	1700	7
Guthrie, Louisa S	720	3
Hall, Dwight	715	3
	1492	5
Ham, James S., heirs of	701	3
	883	3
Hammaker, W. S	2026	10
Hanna, George B	930	3
Harrington, Louisa	120	1
Harrison, R. F	792	3
Haxthausen, Joseph	89	1
Hayes, Thomas G	1705	7
Haynes, James J	1476	5
Haynes, Samuel S	818	3
Higgins, Thomas L	275	1
Hogan, Joseph C	1550	5
Hollcroft, Elijah P. T	91	1
Holmes & Leathers	1781	7
Hooper, James	872	3
Hosack, W. S	378	2
Hot Springs Mountain reservation	1547	5
Howard, Leon	1596	3
Howard, W. H	931	5
Hubbard, Royal M	1734	7
Hunter, Samuel G	1064	4
Hurley, Edward	1773	7
Internal-revenue employés, gaugers, *et al*	371	2
Jennings, R. L	2042	10
Jones, Aquilla	14	1
Jones, Benjamin F	2011	10
Keeves, A. S	61	1
Keightley, William M	1731	2
Kelsey, James E., and others	674	7

Subject.	Rept.	Vol.
COMMITTEE ON CLAIMS—Continued.		
Kennedy, John W	838	3
Kennedy, P. B	764	3
Kennerly, Charles M	702	3
King, J. D	765	3
Kirkpatrick, S	2074	7
Kountz, W. J	763	3
Kramer, Matilda S. and Mary W	1163	4
Landram, William J	1474	5
Lee, Franklin	881	3
Lewis, John W	1581	5
Lewis, Mary A	1224	4
Lincoln, Nebr., paving of streets	1690	7
Lints, J. J	917	3
Little, John	786	3
Lockwood, Chauncey M	1604	5
Logan County, Ky	675	2
Logan, John S., assignee	60	1
Louisville, Ky	675	2
Lutterloh, Thomas S	1723	7
	2037	10
McCabe, James	1699	7
McDougall, George, deceased, legal representatives of	839	3
McKenzie, Lewis	665	2
McLean, Sarah K	1668	7
McMurdie, Maria	2038	10
McPherson, George H	1226	4
Maddux, Martin	1722	7
Manning, James	2019	10
Marcy, Daniel	1702	7
Mathews, F	1195	4
Maynadier, William M	668	2
	1640	5
Merriam, J. E	1475	5
Merritt, Edwin A	683	2
Milliken, Frank, heirs of	676	2
Monroe, Thomas C., estate of	833	3
Moore, Ely	880	3
Mordecai, M. C., administrator of	1139	4
	717	3
Morgan, Thomas P., jr	1056	4
Morrow, William B	282	1
Moss, William, estate of	703	3
Murray, George W	718	3
Myres, B. F	835	3
Nebraska, reimbursement of certain money to the State of	1541	5
New Haven (Conn.) National Bank	1493	5
Newton, Mass., First National Bank of	2014	10
New York, Lake Erie and Western Railroad Company	1484	5
Nickles, John	705	3
Night inspectors at the ports of New York and Baltimore	2027	10
Noble, Noah, heirs of	92	1
Old Dominion Steamship Company	673	2
	1902	7
Otis, George K., legal representatives of	2044	10
Otis, James K., legal representatives of	1726	7
Parish, Joseph W	430	2
Parker, D. S	1195	4
Payne, John Howard, heirs of	355	2
	1448	5
Parr, Burton J	91	1
Plant, George H	511	2
Port wardens in New York and Brooklyn	1779	7

Subject.	Rept.	Vol.
COMMITTEE ON CLAIMS—Continued.		
Potomac Steamboat Company	512	2
Price, Rodman M	1693	7
Quinn, William H	370	2
Raleigh, N. C	1697	7
Ramsey, F. Y	90	1
Read, John B	372	2
	779	3
Redfern, Joseph and Eliza	1611	5
Reeves, Clement	2117	10
Reiner, Herman and Herman, jr	1613	5
Roberts, George F	1551	5
Rockefellow, B. F	1732	7
Rogers, Charles E	1727	7
Root, Elihu	700	3
Ross, Mary L	1063	4
Rother, Frank	1582	5
Rowe, Philip C., heirs of	1548	5
Rowena (scow)	381	2
Russell, Charles T	663	2
Russell (brig)	1922	7
Ryan, David	1546	5
Sadler, James Garret	1066	4
St. Clair, Archie	1727	7
Sawtelle, Charles G	1606	5
Schillinger patents, relief of owners of	24	1
Scott, John	2028	10
Scott, W. T., and others	882	3
	1284	4
Selby, Arthur P	1069	4
Selma and Meridian Railroad Company	23	1
Setzer, Henry	373	2
Seymour, James M	1609	5
	1828	7
Shannon, Joseph R	1062	4
Shimmins, William M	1226	4
Shipley, E. R	25	1
Sibley, Henry H. and Charlotte, heirs of	21	1
Simpson County Court, Kentucky	812	3
Sinnott, P. B	685	2
Skrainka Construction Company	58	1
Smith, Thomas J	118	1
Smith, T. E	61	1
Smith, W. J	1480	5
Southern Railroad Association	1579	5
St. Louis and Mississippi Transportation Company	704	3
Stolle, H. C., and others	837	3
Summer County, Tenn	675	2
Sweet, Chester B	787	3
Tabor, H. A. W	1733	7
Tallapoosa, U. S. ship, sufferers by wreck of	2043	10
Tapp, W. J., & Co	93	1
Taylor, A. K., administrator of George W	1748	7
Teed, Theodore, heirs of	1763	7
Thayer, William B	1551	5
Tice, Isaac P., estate of	919	3
Tinder, William	1228	4
Trask, Mrs. E	978	4
Trenton and *Vandalia* (ships), wreckage of	724	3
Treutlen, John R., heirs of	369	2
Van Vleck, B. J	790	3
Vose, John W., heirs of	884	3
Wachner, S	2073	10

Subject.	Rept.	Vol.
COMMITTEE ON CLAIMS—Continued.		
Waite, C. S	2020	10
Waller, John	1597	5
Walter, Amanda G	1588	5
Ward, W. H	1196	4
	1332	5
Wells, James, heirs of	1692	7
Western Beet Sugar Company	813	3
Western Paving and Supply Company	22	1
Wheaton, William R	686	2
Whitall, Catherine E	1729	7
White, F. F	1608	5
Whitfield, John W., estate of	1407	5
Wilbur, James M	921	3
	1599	5
Williams, Hobart	786	3
Wilson, H. B., administrator	1228	4
Wilson, William F	666	2
Winn, D. M	59	1
Winslow, Nathan C. and Hezekiah J., heirs of	2012	10
Wisdom, D. M	1480	5
Witherby, J. Gaffney	1703	7
Wood, William P	836	3
Woodson, Daniel	880	3
Woodson, R. B	1696	7
Young, John L	1612	5
Young, William F	62	1
Zanone, Julius C	119	1
COMMITTEE ON THE COLUMBIAN EXPOSITION—		
Certain articles from the Smithsonian Institution to	1512	5
Dedication of buildings	2091	10
Discovery of America, proclamation relative to observance of four hundredth anniversary of	1527	5
Invitation to presidents of American republics and governors of American colonies	1515	5
Invitation to the King and Queen of Spain to participate in	1514	5
Foreign exhibitors (laborers of)	2123	10
Library of Congress, exhibition of certain books, papers, etc	570	2
Loan of certain articles	1511	5
Models, drawings, etc	1513	5
National highway commission	2122	10
	2045	10
Report on bill to aid Columbian Exposition	1660	7
COMMITTEE ON COINAGE, WEIGHTS, AND MEASURES—		
Free coinage of gold and silver	249	------
	1839	------
COMMITTEE ON THE DISTRICT OF COLUMBIA—		
Academy and Gallery of Art	1895	7
Alleys, building on	324	2
opening of, in the District of Columbia	865	3
to pay for certain condemned	630	2
Anacostia and Potomac River Railroad Company	513	2
Assessment of taxes	1679	7
Assessments, time of making, etc	518	2
Baker, Henry M	1653	7
Building and other associations, deposits in	758	3
Certificate of indebtedness, payment of a	633	2
Children, dependent	945	4
Children or animals, cruelty to	1215	4
Commission merchants, fraudulent transactions on the part of	631	2
Deadly weapons	1148	4
Dentistry, to regulate practice of	870	3
District of Columbia, street railroad lines of	1169	4
Drawback certificates, holders of	409	2

Subject.	Rept.	Vol.
COMMITTEE ON THE DISTRICT OF COLUMBIA—Continued.		
Duplicate tax ledgers	516	2
Eckington and Soldiers' Home Railway Company	190	1
Electric wires	1629	5
False swearing before trial boards of police force and fire department	628	2
Foreign corporations in	1147	4
Fourth-street M. E. Church	1831	7
Glen Echo Railroad Company	1151	4
Highways, permanent system of	866	3
Ice on Sunday	1440	5
Incorporation laws	7	1
Inspector of plumbing	869	3
Institutions of learning	864	3
Keyser, Esther A	603	2
Land titles in	629	2
Livery-stable keepers	871	3
Madison street	1024	4
Maryland and Washington Railway Company	425	2
Memorial Association of the District of Columbia	1149	4
National Insurance Company	760	3
National Safe Deposit Company	175	1
Norfolk and Western Railroad Company	1628	5
North Capitol street, extension of	1421	5
One-horse cars	1152	4
Pardons, etc., power to grant	174	1
Petworth, Brightwood, and Takoma Railway Company	1289	4
Police force and fire department, false swearing before trial boards of	628	2
Produce dealers' license tax	1254	4
Property, unlawful appropriation and use of	632	2
Protection of property	2001	10
Protestant Episcopal Cathedral foundation	1900	7
Real estate, conveyances of	867	3
Reformation and house of detention	846	3
Rock Creek Railroad Company	759	3
Sanborn, John Jay	1653	7
Settlement of outstanding claims	2129	10
Square 673	1626	4
Square 683, lot 10, to purchase	2107	10
Square 454, platform in the alley	1896	7
Street railroads, motive power of	803	3
Suburban Railway Company	326	2
Tax ledgers, duplicate	516	2
Tax sales and taxes	517	2
Titles to certain lands	1004	4
Washington and Georgetown Railroad Company	1039	4
Washington and Great Falls Electric Railway Company	1627	5
Water revenues, fraud upon the	868	3
Y street, extension of	1824	7
COMMITTEE ON ELECTIONS—		
Craig *vs.* Stewart	367	2
Noyes *vs.* Rockwell	968	4
COMMITTEE ON ELECTION OF PRESIDENT, VICE-PRESIDENT, AND REPRESENTATIVES IN CONGRESS—		
Election of Senators by the direct vote of the people	368	2
Terms of President, etc., commencement and termination of	543	2
COMMITTEE ON THE ELEVENTH CENSUS—		
Census Office, investigation of	1170	4
Eleventh Census, to print	1708	7
Investigation of the Census Bureau	1933	7
Permanent Census Bureau	1068	4

Subject.	Rept.	Vol.
COMMITTEE ON THE ELEVENTH CENSUS—Continued.		
Report of wages	1315	5
The Eleventh Census	1171	4
COMMITTEE ON EXPENDITURES IN THE NAVY DEPARTMENT—		
Leave of absence to certain per diem employés of the Government	1036	4
COMMITTEE ON EXPENDITURES IN THE TREASURY DEPARTMENT—		
Officers and employés in the customs service who receive per diem compensation	1213	4
Protection of persons employed on public works	2124	10
Treasury Department, assistant and chief clerk, office Supervising Architect of	1212	4
Treasury Department, salary of the Supervising Architect of	1211	4
COMMITTEE ON FOREIGN AFFAIRS—		
Barnes, George W	1384	5
Chinese, exclusion of	407	2
Columbian Historical Exposition	923	3
Diplomatic and consular appropriation bill	891	3
Gallagher, Thomas	1921	7
International Arbitration Congress	1987	10
La Abra Silver Mining Company	1143	4
Matchett, William B	1859	7
Melbourne Industrial Exhibition, additional compensation to assistant commissioners of	1378	5
Pan-American Medical Congress	1791	7
Reciprocal commercial relations with Canada	1957	10
Red Cross Association	1790	7
Russia, anti-Jewish laws of	1000	4
Russian Hebrews	1177	4
Swift, Mary A	1061	4
Trade relations with Mexico	1145	4
Weil award	1142	4
COMMITTEE ON IMMIGRATION AND NATURALIZATION—		
Chinese immigration	255	1
Ellis Island, investigation of	2090	12
Enforcement of immigration and contract labor laws	1573	5
Proposed immigration investigation	411	2
COMMITTEE ON INDIAN AFFAIRS—		
Admission of Indian Territory	1927	7
Allotment of lands among certain Indian tribes	2040	10
Ayres, Eli, legal representatives of	2113	10
Buffalo Creek treaty	1858	7
Certain lands of the Confederated Otoe and Missouria tribes of Indians in Nebraska and Kansas	1793	7
Cherokee Outlet	1631	5
Cheyenne and Arapaho Indians, opening to settlement lands acquired from	478	2
Choctaw and Chickasaw Indians	1661	7
Colville Reservation	1035 1525	4 5
Delaware Indians, payment to	122	1
Denison and Northern Railway Company	1060	4
Eastern Band of Cherokee Indians	1871	7
Gainesville, McAlester and St. Louis Railway Company	386	2
Gainesville, Oklahoma, and Gulf Railway Company	387	7
Grubb and Robinson	1751	1
Hutchinson and Southern Railroad Company, right of way to	3	2
Indian appropriation bill	325 1052	4 4
Indians, citizenship of	1130	7
Jones, Huff	1659	2

Subject.	Rept.	Vol.
COMMITTEE ON INDIAN AFFAIRS—Continued.		
Kickapoo Indians in Oklahoma Territory	1662	7
Klamath River Reservation	161	1
Liquor on Indian reservations	1598	6
Marinette and Western Railroad Company	347	2
	692	3
Miami Indians	1380	5
Mission Indian Commission	691	3
	1633	5
Pottawatomie Indians, Citizen Band of	851	3
Protection of Indian tribes from trespassers	1530	5
Puyallup Indian Reservation	1945	10
Right of way through Umatilla Reservation	1963	10
Shawnee and Delaware Indians, claims of	1554	5
Smith, Nimrod J	1827	7
Southern Ute Indians, Colorado	1205	4
Stockbridge and Munsee Indians	558	2
Travis, M. M	348	2
Uncompahgre Reservation, changing boundary of	1076	4
West, Bluford, estate of	182	1
White Mountain Apache Indian Reservation	1857	7
Wisconsin, sale of timber on certain land	1077	4
Yuma Pumping Irrigation Company	1856	7
SELECT COMMITTEE TO INVESTIGATE CHARGES RESPECTING CONDUCT OF MEMBERS ON THE FLOOR OF THE HOUSE—		
Report of investigation	2132	10
SELECT COMMITTEE TO INVESTIGATE THE METHODS AND MANAGEMENT AND PRACTICES OF THE BUREAU OF PENSIONS—		
Report of, part 1	1868	8
Report of, part 2	1868	9
SELECT COMMITTEE TO INVESTIGATE TAX IN THE DISTRICT OF COLUMBIA—		
Report of, on assessments	1469	5
COMMITTEE ON INVALID PENSIONS—		
Alexander, Adeline	527	2
Allen, Jane	101	1
Allen, Katie	1565	5
Army nurses	802	3
Arnold, Mrs. M. E	1472	5
Atherton, Amanda	858	3
Avery, Frank L	1917	7
Badger, Louis	1616	5
Banister, Elizabeth M	1299	4
Barber, Alonzo D	860	3
Barnett, Druke Nettie	1240	4
Barrett, Walter	1622	5
Beerbower, Martha A	774	3
Bell, Moses	988	4
Bentley, Watson S	2061	10
Bodley, Julia	639	2
Bollman, Lydia	1874	7
Boodger, Adda L	460	2
Boone, Esther J	1239	4
Bowden, Elizabeth	768	3
Boyd, George W	1302	4
Brackett, Margaret	1735	7
Bradford, Delzell R	1872	7
Brainerd, Martha Noble	1236	4
Brennan, Bridget	1875	7
Brewer, William H	1237	4
Bringhurts, James	1913	7

Subject.	Rept.	Vol.
COMMITTEE ON INVALID PENSIONS—Continued.		
Brinneman, Cynthia	533	2
Brown, Ellen Miles	772	3
Burns, Anna Morgan	1138	4
Byron, Margaret	1877	7
Campbell, Samuel M	1516	5
Carpenter, Elizabeth	773	3
Case, Maud	1532	5
Cassell, Ida	955	4
Chamberlain, John	1517	5
Chamberlin, Mary	1443	5
Chapman, Samuel H	2006	10
Cheney, Wells	87	1
Christien, Margaret	301	1
Christopher, Mary B	1913	7
Clark, Charity W	638	2
Colvill, William	635	2
Cooper, Thomas	956	4
Corcoran, Mary J	1590	5
Corser, David S	1243	4
Cota, Harriet	1815	7
Cowgill, Sarah	1450	5
Criner, Eliza A	1808	7
Cullen, James	1914	7
Danahay, Mary	1563	5
Davis, Annie	1919	7
Davis, Cassie A	959	4
Day, Ellen	1390	5
Deafness, increase of rate in certain cases	1263	4
	1920	7
De Russey, Helen A	2101	10
Deyo, Jonas	1885	7
Doolittle, Esther	41	1
Dunham, John S	1157	4
Eicks, William	982	4
Emerson, Earnest C	1444	5
Fays, Eliza	420	2
Ferris, Adelia S	98	1
Finney, Abigail L	1349	5
Fleenor, John T	1909	7
Flynn, Margaret A	2081	10
Ford, John C	637	2
Fortier, Joseph	1806	7
Fritcher, Elizabeth L	1620	5
Frymire, George L	2064	10
Geer, Martha A	1737	7
Gibson, Guy W	2065	10
Goff, Ellen	529	2
Gray, Jennie	2067	10
Green, Ann M	1915	7
Greene, Annie M	2082	10
Griffith, Martha J	1238	4
Hagan, Sarah A	958	4
Hahn, Lydia E	861	3
Hall, John S	2103	10
Hall, Minnie	531	2
Hamilton, Mrs. C. R. ("Sister Angela")	1391	5
Hamilton, Sophia J	1154	4
Hammond, Robert	1389	5
Harris, Martha A	1895	7
Haskell, Lucy	415	2
Hastings, Rosanna	1736	7
Hatch, Ellen De Witt	2009	10

Subject.	Rept.	Vol.
COMMITTEE ON INVALID PENSIONS—Continued.		
Hazzard, George W	1566	5
Heazlitt, John C	2007	10
Heinze, Herman	1625	5
Henderson, Sarah L	40	1
Heninger, Louis	1446	5
Hewett, Ellen	939	3
Hineline, Sophia Bruner	536	2
Holmes, Eliza	1876	7
Holstein, Anna M	1559	5
Hood, Julia	1553	5
Hull, Mary E	863	3
Hutchison, Mary Isabella	456	2
Hyatt, Margaret	1560	5
Ingraham, Ira	1624	5
Johnson, Anna P	1235	4
Johnson, Emma	1303	5
Johnson, Wells	1912	7
Judd, Joana	1618	5
Kagwaich, Sophia	1880	7
Kelly, Elizabeth	65	1
Kelly, Mary Clare	1318	5
Kelly, Sarah A	2099	10
Kennedy, Lydia M	769	3
Kennock, Dora E	1883	7
Kimball, Jonathan	548	2
Larnard, Helen	2116	10
La Tourrette, Henry S	1029	4
Law, Mary E	1615	5
Leach, Orinda	770	3
Leahey, Michael	636	2
Leibarger, Phebe, estate of	862	3
Leonard, Lois P	1083	4
Locke, Sarah J	1738	7
Lomasney, Susan	1392	5
McCabe, Elizabeth	1241	4
McCammon, James	73	1
McChesney, Mary D	2071	10
McDermott, Martin	1561	5
McGeorge, Betsey	2063	10
McNeil, Jane	1740	7
Maguire, Ellen	63	1
Mailloux, Belle Carlton	1085	4
Maloy, Bridget	66	1
Martin, Mary	2058	10
Matlock, Thomas J	2056	10
Melvin, Fordyce R	2104	10
Millard, Mary	1162	4
Miller, Martha E	2062	10
Mitchell, Kate P	64	1
Mohan, Elizabeth	641	2
Monroe, Andrew J	2080	10
Moorehead, Mary A	1306	5
Morris, Jennie B	459	2
Murray, B. Jennie	775	3
Nason, Ralph Waldo	1534	5
Neal, William M	2115	10
New, Adelia	1445	5
Newkirk, Isabella W	2106	10
Niles, Harriet E	2005	10
Noble, Sarah A	1451	5
Northrup, Anson	2066	10
O'Brien, Michael	1153	4

Subject.	Rept.	Vol.
COMMITTEE ON INVALID PENSIONS—Continued.		
O'Connor, Mary	1301	4
O'Neal, Jacob	1873	7
Osgood, James H	979	4
Pacheco, Juan	1159	4
Palmatier, Eliza T	1879	7
Pangborn, Sarah L	1645	7
Parker, Mary F	1304	5
Parsons, Marrilla	1434	5
Pensions, evidence in application for	627	2
execution of declarations in claims for	559	2
intermediate rate of	515	2
	1264	4
in soldiers' homes	1840	7
to incapacitated soldiers and sailors	1260	4
to nonresidents	1509	5
to widows and children of soldiers who died in service	500	2
Pensions and other claims, relative to prosecution of	1531	5
Pension laws, amendment to, relating to ex-Confederates	1292	4
revision of	1853	7
Philbrook, Caroline E	1448	5
Phipps, Ellis P	740	3
Prather, Thomas T	1156	4
Putman, Eunice	2098	10
Quigg, Caroline E	184	1
Read, Edith S	1558	5
	1886	7
Reardon, Mary Catharine	532	2
Reese, Charles	2070	10
Reeves, Louisa J	1623	5
Reik, Emily	1739	7
Rice, Margaret M	1158	4
Ries, Lillie	1084	4
Rigg, Druzilla J	2097	10
Reik, Abasha	1887	7
Roberts, Julia S	2060	10
Roberts, John M	1911	7
Ronaldson, Sarah L	1234	4
Root, Leroy	2100	10
Ross, Mary Ann	938	3
Russell, Sarah A	2105	10
Salisbury, Susan T	1155	4
Scott, John	859	3
Seaver, Nettie N	2057	10
Sharman, Marion Kern	954	4
Sharp, Louisa B	1557	5
Shaw, Clara V	1388	5
Shea, Honora	1928	7
	2069	10
Sheldon, Thomas F	2003	10
Sherman, Jane A	1667	7
Shierry, Jane	57	1
Sipp, Mary A	857	3
Skeels, Laura E	437	2
Smith, Caroline	1032	4
Smith, Edward S., accrued pension of	421	2
Smith, Eliza	546	2
Smith, Mary C	1556	5
Smith, Sarah F	1881	7
Smith, Stephen D	1086	4
Smith, William C	2072	10
Smitherman, Edward	1807	7
Snavely, Charlotte	547	2

Subject.	Rept.	Vol.
COMMITTEE ON INVALID PENSIONS—Continued.		
Stanley, William Oscar	1741	7
Starr, Eliza K	1242	4
Stevens, Harriet W	2055	10
Stewart, Electa Ann	1646	5
Stiers, Ivy	1449	5
Stockwell, John	953	4
Sutherland, Obe	449	2
Swiggart, Sallie M	771	3
Tarkington, William C	1614	5
Taylor, Ida A	1621	5
Taylor, William H	2010	10
Telford, Mary Jewett	428	2
Test, Bertha	957	4
Thompson, Lodusky	1882	7
Thompson, Thomas	840	3
Thornhill, French W	1562	5
Tompkins, Julia S	1161	4
Torrence, Anna	1617	5
Trickey, Mary E	678	2
Tritcher, Elizabeth L	1620	5
Truex, David L	416	2
Tucker, Mary	1878	7
Turner, Granville R	1916	7
Tuttle, Mary	2008	10
Van Nest, Sarah L	2004	10
Van Vliet, Evalyn N	1918	7
Vaughn, Jennie	183	1
Venard, Mary	1305	5
Vosburg, Harriet T	2059	10
Voss, Elizabeth	1160	4
Wade, Jennie Y	448	2
Walters, Joel A	1908	7
Ward, Jane A	298	1
Webster, Amelia R	1533	5
Welty, Joseph H	2102	10
White, Cecelia	530	2
White, Mary E	1566	5
Widows of Union soldiers and sailors	2068	10
Willey, James H	640	2
Williams, Florence Esther	1910	7
Willson, Elizabeth R	528	2
Wilson, Frances B	1447	5
Wise, Mary A	1564	5
Wolcott, Sabra A	1300	4
Woodbury, Harriet	1884	7
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE—		
Ashland, Wis	999	4
Bills of lading	1988	10
Bridges, to be erected by—		
Alabama Grand Trunk Railway	1939	7
Alabama Great Northwestern Railway	1683	7
Aransas Harbor Terminal Company	1320	5
Brookfield and Northern Railroad	689	3
Burlington and Illinois River Bridge Company	234	1
Chamberlain Pontoon Bridge Company	911	3
Chicago, Mobile and Gulf Ports Railroad	1685	7
Chicago, Peoria and St. Louis Railway	1175	4
Cincinnati and Covington Rapid Transit Bridge Company	2079	12
Continental Bridge Company	617 1016	4 7
Gurleys and Paint Rock Valley Railroad	1663	7

Subject.	Rept.	Vol.
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE—Continued.		
Bridges to be erected by—		
Hoxie and Pocahontas Railroad	1684	4
Huntsville Bridge Company	1174	3
Illinois and Iowa Railway and Terminal Company	941	4
Knoxville Southern Railroad	1037	7
Kootenai River at Fry, Idaho	1940	3
Lake Charles Road Bridge Company	942	5
Mexican Gulf, Pacific and Puget Sound Railroad	1319	5
Middle Georgia and Atlantic Railway	1321	2
Mississippi River at Davenport, Iowa	619	7
Missouri River at Omaha, Nebr	1688	3
Missouri River at St. Charles	910	6
Montgomery, Tuscaloosa and Memphis Railway	1682 1686	7 7
Natchitoches Cane River Bridge Company	1850	7
New York and New Jersey Bridge Companies	909	3
Oregon and Washington Bridge Company	816 1038	3 4
Quincy Pontoon Bridge Company	912	3
Rapides Bridge Company	1851	7
St. Lawrence Railway	1635	5
St. Louis and Birmingham Railway	620	2
St. Paul, Minneapolis and Manitoba Railway	1687	7
Springfield, Sedalia, Marshall and Northern Railroad	618	2
South St. Paul Belt Railroad	8	1
Velasco Terminal Railway	615	2
Yankton Bridge Company	1176	4
Chicago River pier	616	2
Coasting trade on Great Lakes	688	3
Commercial travelers	186	1
Compagnie Française du Télégraphe	964	4
Council Bluffs, Iowa	507	2
Customs officers	1233	4
Des Moines, Iowa	852	3
Duluth, Minn	1974	10
Dunkirk, N. Y	1845	7
Fernandina, Fla	1218	4
Foreign-built vessels	966	4
Interstate commerce	1457 1694	5 7
Interstate commerce and labor laws compilation	1960	10
Kentucky and Indiana Bridge Company	1452	5
Laredo, Tex	544 1014	2 4
Life-saving appliances on steamers	568	2
Life-saving stations, to establish at—		
East Marion, N. Y	1689	7
Gay Head, Mass	188 1043	1 4
Life-Saving Service pay	508	2
Lights, etc., to establish at—		
New Bedford, Mass	187	1
Sundry	1041 1458	4 5
Tampa Bay	572	2
Willamette River	1256	4
Marquette, Mich	853	3
Middle and Thunder, Bay Island	1501	5
Newark, N. J	272	1
Norman, Seaton	1619 1952	5 7
Ogdensburg, N. Y	235	1

Subject.	Rept.	Vol.
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE—Continued.		
Pansy, light-house steamer	986	4
Punta Gordo, Fla	1210	4
Railroad automatic couplers	1678	7
Reading, Lehigh Valley and Central Railroads	1630	5
Revenue cutter for great lakes	820	3
Revenue cutter for Pacific coast	819	3
Revenue cutter for San Francisco	384	2
St. Augustine, Fla	1359	5
St. Paul, Minneapolis and Manitoba Railway	1852	7
Squaw Inlet light	965	4
Steam-vessel regulations	1972	10
Steam vessels	1897	7
Superior, Wis	999	4
Tibbetts Point, N. Y	1648	7
Topeka Water and Electric Power Company	1438	5
Tybee Island signal station	916	3
Velasco, Tex	545	2
Vessels unloading	1129	4
Virginia coast-line telephone	1044	4
Welland and St. Lawrence Canal	185	1
West Point, Va	443	2
COMMITTEE ON IRRIGATION OF ARID LANDS IN THE UNITED STATES.		
United States, arid lands of	569	2
COMMITTEE ON THE JUDICIARY:		
Arkansas, additional clerk for district and circuit court of eastern district of	295	1
Appeals in capital cases	1607	5
Arrest of offenders against United States	1966 1967	10 10
Bankruptcy, uniform system of	1674	7
Biggs, Asa, estate of	750	3
Boarman, Judge Aleck	1536	5
Boyd, Elizabeth T	946	4
Brockenburgh, John, estate of	749	3
Captured and abandoned property	1377	5
Centennial Board of Finance	1150	4
Claims against the United States, transfers and assignments of	422	2
Circuit courts of appeals	1258	4
Congress, time of assembling of	810	3
Constitution, amendment to	294	1
Corporate sureties in Federal courts and departments	1229	4
Court of Claims	1540	5
disposition of causes in	1259	4
jurisdiction in certain cases of	366	2
Court of private land claims	908 1173	3 4
Courts of the United States, fees and counsel of poor litigants	1079	4
Evanston, Wyo., term of United States court at	984	4
fees of clerk of	1970	10
fees of jurors, witnesses, etc., in certain States and Territories	424	2
form, practice, etc., in	994	4
illegal practices and abuse of judicial process	1966 1967	10 10
judgments rendered in	170	1
jurisdiction of district and circuit	271	1
returns of fees by district attorneys	1969	10
returns of fees by commissioners	1968	10
clerks	1970	10

Subject.	Rept.	Vol.
COMMITTEE ON THE JUDICIARY—Continued.		
Courts of the United States, sale of property under orders and decrees of	270	1
Wisconsin	176	1
Cumberland, Md., terms of United States circuit and district courts at	405	2
Deed and other records of the Office of Indian Affairs	1316	5
Depositions in criminal cases	446	2
Detroit, Mich., releasing claim and interest to a lot in	163	1
District of Columbia, court of appeals of	1172	4
police court of the	1926	7
Fees of jurors and witnesses in United States courts in certain States and Territories	424	2
Fees, returns of by district attorneys	1969	10
clerks	1970	10
commissioners	1968	10
Flag of United States, desecration of	541	2
Georgia, northern judicial district of	444	2
Grand Army of Republic, encampment of 1892	2086	10
Hankins, Joel S	946	4
Homestead, Pa., conflict at	1376	5
	1803	7
labor troubles at	2142	10
Idaho, United States courts in	309	1
Illegal practices connected with the United States courts and abuse of judicial process	1966	10
Indian Territories, liquors in	1866	7
Internal-revenue laws, amending	159	1
Judges, justices, etc., disqualifying, in certain cases	406	2
Judgments and decrees of the highest courts of the Cherokee, Creek, Seminole, Choctaw, and Chickasaw tribes of Indians, respectively	1437	5
Judgments rendered in United States courts	170	1
Kansas, third division of the district of	571	2
Kentucky, United States courts in	1971	10
Ley, John Henry	2078	10
	2083	10
Littleton, N. H., terms of circuit and district courts at	442	2
McCormack, A. P., charges against	739	3
Marriage and divorce	1290	4
	1291	4
Metropolitan Railroad Company	1847	7
Mississippi, clerks in United States circuit and district courts of	932	3
Missouri, times for holding courts in western district	755	3
Montana, southern division of the district of	1816	7
Murder in the first and second degree, defining the crimes of	504	2
Naturalization laws, amending of	697	3
New York, northern district of, terms of United States courts	1013	4
North Dakota, judicial district of	983	4
Oklahoma, associate justices of supreme court of	1413	5
Pinkerton Agency, investigation of	1376	5
Poor persons in court	1079	4
Presidental succession	160	1
Public works, protection of persons furnishing labor or material	1973	10
Questions of fact	189	1
Readjustment of certain accounts	1209	4
Reserve fund	1780	7
Revised Statutes of the United States, section 856	801	3
Revised Statutes, amending section 828	445	2
Revised Statutes, amendment to section 707 of	1825	7
Revised Statutes, sections 3480 and 4716	614	2
Revised Statutes, supplement to	1867	7

Subject.	Rept.	Vol.
COMMITTEE ON THE JUDICIARY—Continued.		
South Carolina, payment of certain moneys to the State of	1262	4
change of terms of court	1788	7
South Dakota, United States courts	1846	7
Springfield, Mass., sale of certain lands	1789	7
Sugar trust	1286	4
Suits against Government of United States	1706	7
Suits in certain cases, revival of	383	2
Tatnall, John R. F	6	1
Texas, eastern district, changing time of holding court in	231	1
Tobacco, sale of leaf	940	3
To protect trade and commerce	1418	5
Utah, additional justice of supreme court for	232	1
West Virginia, direct tax	1941	7
West Virginia, time for holding circuit and district courts in	933	3
Wisconsin, western judicial district of	2	1
COMMITTEE ON LABOR—		
Bureau of Engraving and Printing, leave of absence to employés in	408	2
Eight-hour law, etc	427	2
Government works, employment of convict labor on	1312	5
Idaho, labor troubles in	2016	10
Investigation of the slums of cities	625	2
Labor statistics	514	2
Mechanics and laborers, hours of labor for	1267	4
COMMITTEE ON THE LIBRARY—		
Bancroft, George, library of	1947	7
Bancroft, Hubert Howe, library of	1795	7
Beaufort, (S. C.) Library Society	1294	4
Colonial Dames of America, Society of	256	1
Executive Mansion, oil painting for	1293	4
Fort Greene, Brooklyn, monument to the memory of the victims of British prison ships at	169	1
Greene, Nathanael, monument to	472	2
Harrison, William Henry, monument to	1217	4
Historical manuscript relating to the District of Columbia	1216	4
Jefferson, Thomas, certain manuscript papers and correspondence of	1231	4
Lafayette statue, dedication of	1644	7
Morgan, Daniel, monument to	471	2
Père Marquette, statue of	990	4
Put-in Bay, monument at	1214	4
Saratoga, monument at	168	1
Smithsonian Institute, vacancies in the Board of Regents of	4	
Sutter, John A	1255	4
Thomas, George H	1923	7
Townshend's Library	1707	7
COMMITTEE ON MANUFACTURES—		
Tenement-house labor, sweating system of	164	1
COMMITTEE ON MERCHANT MARINE AND FISHERIES—		
American registry of foreign-built ships	966	4
American shipbuilding	927 1634	3 5
Damages to planted oysters and oyster beds	2053	10
Fisheries, regulating	1350	5
Foxhall (steamer) American register for	1327	5
Potomac River, protection of fish	1953	7
Seabird (barge), American register for	1330	5
COMMITTEE ON MILITARY AFFAIRS—		
Acting officers, rank and pay	734	3
Alcantara, Francisco	1202	4
Alden, Warren Alonzo	1089	4
Amendment to seventeenth article of war	1356	5

Subject.	Rept.	Vol.
COMMITTEE ON MILITARY AFFAIRS—Continued.		
American Revolution, military records of	1357	5
Anderson, Allen	589	2
Anderson, Allen L	1082	4
Army, administration of justice in the	817	3
Army and Marine Corps, pay and allowances of retired enlisted men of	824	3
Army, appropriations for	549	2
Army officers, detail of	236	1
Assumed names	733	3
Bagshaw, George	205	1
Bamfield, James	579	2
Barr, George W	574	2
Beach, Warren C	1563	5
Behle, Charles H	1220	4
Belger, Fannie N	962	4
Beshears, Alvis	158	1
Bevins, Samuel	208	1
Biddle, Jerome H	105	1
Blake, C. M	267	1
Blood, Charles S	646	2
Boag, William R	1462	5
Board of Review	1074	4
Bounties, equalization of	729	3
to veteran volunteers	732	3
Bourke, John G	1137	4
Bovell, John V	193	1
Bowen, George E	1936	7
Boyd, Augustus	455	2
	1809	7
Boyd, Orsemus B	751	3
Britton, William	1088	4
Brooks, S. J	1799	7
Brown, William H	540	2
Brownson, Leonard I	1768	7
Buckner, Benjamin F. (or Taylor)	196	1
Burdette, John C	206	1
Butler, John M	588	2
Campbell, Benjamin F	1770	7
Carpenter, Thomas H	266	1
	510	2
Carrick, Robert	1125	4
Casey, Peter	194	1
Casey, Robert	104	1
Ceran, Capt. St. Vrain's company, New Mexico Mounted Volunteers	1435	5
Certain volunteer soldiers	735	3
Certificates of merit for unattached and enlisted men, etc	542	2
Champlain and St. Lawrence Railroad Company	477	2
Chesbrough, Nicholas G	610	2
Cohn, Henry S	907	3
Cole, Broad	586	2
Columbian Exposition, detail of certain officers for special duty in connection with the	1470	5
Cordray, David P	791	3
Corridon, James	761	3
Courchaine, Daniel B	363	2
Cozad, Henry	2041	10
Cramer, Delos	452	2
Crangle, Henry	1937	7
Cutts, J. Madison	2118	10
	2131	10

Subject.	Rept.	Vol.
COMMITTEE ON MILITARY AFFAIRS—Continued.		
Dana, Napoleon J. T	454	2
	1441	5
Daniel, Calvin	1028	4
Davis, F. W	645	2
Davis, John M	1756	7
Disabled Volunteer Soldiers, National Home for	250	1
Disabilities, removal from certain officers	730	3
	731	3
Dunfee, Nicholas	874	3
Dyer, Lucius L	1521	5
East Baton Rouge, La., St. Joseph's church	1745	7
Eckerson, George W	362	2
Edwards, Richard M	109	1
Eldridge, Daniel	1164	4
Ferrell, Hugh	584	2
Field, Francis A	1814	7
Finley, James A	716	3
Fisher, Neil	708	3
Fletcher, William	1244	4
Fort Brown military reservation	2050	10
Fort McClary military reservation	1439	5
Fort Mifflin, sale of land at	1944	7
Fort Monroe, Va., hotel on reservation at	1746	7
Fort Wayne, Mich., military post at	1642	7
Freedley, Henry W	1203	4
Freeman, R. V	591	2
Frost, John G	753	3
Gage, E. Darwin	2033	10
Garrard, Charles T	592	2
Gassett, John W	578	2
Gettysburg Memorial Association	1643	7
Gillies, Charles F	1329	5
Gillingwaters, J. E	573	2
Grand Army encampment, loan of flags, etc	499	2
Grant, Chester F	107	1
Gray, James E	106	1
Greene, George S	1080	4
Groat, Abram	498	2
Grugett, Andrew L	595	2
Hadley, E. D	1247	4
Hanson, Willis F	201	1
Hart, Rodman	876	3
Heirs of certain soldiers	924	3
Helena, Mont., military post at	623	2
Henry, George M	1811	7
Hershe, Benjamin F	200	1
Heuston, Charles E	1054	4
Hogarty, William P	928	3
Holloway, William H	1904	7
Holmes, Prentice	960	4
Horn, Fritz	209	1
Hospital Corps of the Army, pay of privates of	172	1
Hugo, William H	873	3
Huse, Caleb	2034	10
Hyland, Patrick	523	2
Ilwaco Railroad and Navigation Company	1295	4
Jack, John A	2022	10
Jackson, George	197	1
Jennings, James C	1906	7
Johnson, Gilman L	537	2
Johnson, Joseph	1265	4
Kale, Wilson	1396	5

Subject.	Rept.	Vo
COMMITTEE ON MILITARY AFFAIRS—Continued.		
Kane, James	875	
Keach, Albert	357	
Keefe, Michael, deceased	94	
Kelly, Francis J	1402	
Kent, Henry O	1750	
King, Orris O	204	
Klanser, Emanuel	1522	
Knapp, Andrew B	1602	
Knowlton, William C	1308	
Kolter, Frederick E	949	
Lake, Romantus	748	
Lanahan, John D	1753	
Lane, Henry	1769	
Lang, Nathaniel	450	
Larkin, William J	1854	
Lease of certain public property	1817	
Leonard Avenue Street Railway Company	1698	
Little Rock, Ark., military post near	757	
Little Rock, Ark., wood from, to the national cemetery adjacent thereto	1021	
Lofland, H	1246	
Long, Francis, and others	642	
Long, James W	1140	
McClure, Daniel	99	
McColmant, Elisha	1027	
McDonald, Orin A	947 951	
McFarland, James A	195	
McKinney, George W	1755	
McLaughlin, Thomas A	948	
McLean, Cornelius	594	
McLean, Sarah K	1313	
McMahan, John	382	
McNeil, Quincy	644	
Madrid, Columbian Historical Exposition at	923	
Markham, Pleasant	585	
Marks, George A	2036	
Medical officers during late civil war	1067	
Medical officers, grade of	894	
Military Academy, appropriations for	5 925	
Master of the sword, fixing rank of	1414	
Military post at Fort Wayne, Mich	1642	
Military post in Vermont	297	
Military telegraph lines	1005	
Millican, William	878	
Missing soldiers	924	
Moore, Robert	581	
Murray, Joseph	202	
New Bedford, Mass., public park	1398	
Officers who were mustered as officers after March 3, 1865	730 1015	
Oklahoma City, military reservation at	1020	
Oliver, Aaron J	100	
O'Reilly, Thomas P	643	
Ottstotts, Frederick	599	
Patton, S. K. N	180	
Pay and allowances of retired enlisted men of the Army and Marine Corps	826	
Pierce, William	1754	
Price, William B	1090	
Pringle, William N	1810	

Subject.	Rept.	Vol.
COMMITTEE ON MILITARY AFFAIRS—Continued.		
Promotion of army officers	171	1
Promotion of enlisted men of the Army	1358	5
Promotion in the Army	1818	7
Pyer, Charles G	1804	7
Randleman, John H	744	3
Ransom, Dunbar R	950	4
	1766	7
Read, Henry A	453	2
Records of volunteers armies	895	3
Regan, James	996	4
Retired list for privates and noncommissioned officers of the Army	823	3
	824	3
	825	3
	826	3
Robinson, John W	1134	4
Rogers, Benjamin F	244	1
San Diego, Cal., harbor defense at	756	3
Sanitarium, relative to establishing, in New Mexico or Colorado	1463	5
Santa Fe, Prescott and Phœnix Railway Company	1591	5
Sarsfield, David	2023	10
Schachleiter, George W	1091	4
Schlapp, August	198	1
Schwarz, Christian	1310	5
Scott, Austin A	199	1
Semmler, Louis	1309	5
Shear, Lansing	1752	7
Sheehy, Michael	207	1
Sherman, William T., statue of	1459	5
Sidney, Nebr., land for cemetery	1261	4
Skinner, John H	538	2
Small, Michael P	920	3
Smith, William, and others	352	2
	1772	7
Soldiers' Home managers	250	1
	505	2
	1178	4
Soldiers of the late war and the war with Mexico, to extend act relating to	1894	7
Speigleburg, Wilhelm	1658	7
Spencer, William C	299	1
	1665	7
Stanley, David S	1245	4
Stewart, Charles B	1518	5
Stimson, Hiram	258	1
Stivers, Charles B	1767	7
Street, Harlow L	353	2
Summary courts	817	3
Taylor, Jesse C	1026	4
Taylor, John W	1461	5
Thomas, Madison A	1905	7
Thompson, George W	192	1
Thompson, James W	497	2
Thurmond, Harrison	590	2
Tuttle, Montgomery M	1395	5
Ulrich, Ernest	1771	7
Unterleiter, Henry	1442	5
Utter, Joseph G	1266	4
Van Fossen, John	178	1
Volunteers, muster and pay of certain officers and enlisted men of	728	3
Wackerly, Joseph	1087	4

Subject.	Rept.	Vo
COMMITTEE ON MILITARY AFFAIRS—Continued.		
Wagnon, Thomas D	582	
Wallace, David R., deceased	2021	
Ward, Daniel	587	
War of rebellion, to extend act relating to soldiers of	1894	
War with Mexico, to extend act relating to soldiers of	735 1894	
Warren, Alexander	1394	
Warren, John	496	
Warrender, Samuel	577	
Webb, William W	451	
Wedgwood, William W	121	
Wells, Edwin A	877	
Wells, Eugene	856	
Welsh, William	354	
Welty, Charles W. E	539	
Werner, Charles J	1938	
Whitham, Charles	583	
Wickham, Francis W	1455	
Wilkinson, Warren W	1520	
Williams, Isaac	580	
Williams, Joseph C	593	
Wilson, Ezra A	179	
Wilson, William	1285	
Winder, William A	108	
Wise, Curtis P	181	
Woodson, Warren A	1081	
Workman, Thomas C	210	
Wright, Henry H	203	
Zell, Henry	647	
COMMITTEE ON THE MILITIA—		
Militia, efficiency of	754	
National Guard, additional artillery for	1059	
Nebraska, ordnance stores and supplies for	2120	
COMMITTEE ON MINES AND MINING—		
California, hydraulic mining in	937	
California, mining débris in	165	
Executive department of mines and mining	1003	
McGarrahan, William	245 1587	
COMMITTEE ON NAVAL AFFAIRS—		
Algiers, La., dry dock near	251	
Assistant to chief of Bureau of Navigation	1989	
Badger, Oscar C	1483	
Brooklyn, sale of navy-yard lands	1482	
Broome, John L	1529 1855	
Dull, John C	1473	
Engineer Corps of the Navy	1491	
Glass, Henry	1250	
Hamersly, Lewis R	1334	
Jouett, James E	929 1641	
Kelly, Denis	1477	
Mackintosh, James C	1535	
Medals for the officers and crew of the U. S. S. *Baltimore*	1001	
Morrison, James	1535	
Navy, appropriations for	621	
Navy, enlisted men in	1504	
Navy, reduction in the engineer corps of	440	
Naval appropriation bill	1453	
Naval observatory	926	
O'Brien, Oliver	2035	
Palmer, N. F., jr., & Co	1774	

Subject.	Rept.	Vol.
COMMITTEE ON NAVAL AFFAIRS—Continued.		
Pensacola Terminal Company	1503	5
Perkins, George H	1498 1899	5 7
Pneumatic Dynamite Company of New York	1680	7
Promotions in the marine corps	1502	5
Retired list for enlisted men	2051	10
Revenue Cutter Service, transfer of	1677	7
Rose, John G	1991	10
Sartori, Louis C	2092	10
Terrell. D. J	1420	5
Yorke, Louis A	1990	10
COMMITTEE ON PATENTS—		
Columbian Exposition, foreign exhibitors at	626	2
Patents, statutes relating to	1494	5
Protection of innocent users of patented articles	1826	7
Trade-marks and labels	1860	7
Trade-marks, registration of	410	2
Winans, William L	1605	5
COMMITTEE ON PENSIONS—		
Absher. Anderson	1980	10
Allen, George R	247	1
Alvis, Henry J	1354	5
Anderson, Samuel S	1783	7
Askew, John J	2029	10
Athon, Levenia D	1930	7
Aubrey, Andrew J	1983	10
Bacon, Mary L	1762	7
Barnard. Anna E	2076	10
Barrow, David C	492	2
Belger, Fanny N	1786	7
Bell, Luman	2089	0
Bethards. Henry J	975	4
Birch, William A	223	1
Boatright, Eliza M	490	2
Bolings, Samuel J	222	1
Bradford, Joseph J	1710	7
Bridges, Rebecca	1982	7
Briggs, Samuel G	1949	7
Brown, Elisha	1861	7
Burrough, William	743	3
Burton, Felix	1843	7
Byrd, Susan C	1932	7
Calhoun, Maggie E	1715	7
Campbell, Nancy	1782	7
Campbell, Robert S	1757	7
Carlton, Ambrose B	1892	7
Carpenter, Ellen	2047	10
Chadwick, Susannah	714	3
Chapman, Edward R	902	3
Churchill, Benjamin	976	4
Clark, George W	2031	10
Cleaveland, Jesse	1836	7
Coffman, Joseph	2048	10
Conroy, Eliza	2077	10
Copen, Addison M	998	4
Copenhaven, A. J	1934	7
Craig, Joseph	1992	10
Crawford, Elizabeth R	336	2
Dally, Abraham	1709	7
Davis, James A	339	2
Davis, Susanna	1838	7
Day, Cornelius	1997	10

Subject.	Rept.	Vo
COMMITTEE ON PENSIONS—Continued.		
Deafness, rates in certain cases of	1920	
Dean, John A	1863	
Donaldson, Mary E	811	
Donnelly, Peter	805	
Dunn, Philip G	1714	
Dyall, James R., widow of	1978	
Ellis, Agnes P	897	
Enlow, Thomas	977	
Falkner, Nathan	1760	
Farquharson, Mrs. S. A	1785	
Fields, John	2030	
Fisher, Samuel O	55	
Frazier, Stark	679	
Gardener, Frances P	1055	
Gatlin, Mary	491	
Goodwin, Miles	1051	
Graham, Amelia	1981	
Granberry, Joseph J	1765	
Hall, Jacob	1834	
Hallam, John	1907	
Hamilton, Aaron V	493	
Harley, Elizabeth	1835	
Hollis, Mary	1994	
Howell, William C	1717	
Indian wars of 1832 to 1842, inclusive	818	
Israel, Pleasant R	1355	
Jergins, Jesse J	1777	
Jobe, Lavina	1711	
Jones, Andrew J	338	
Kelly, James A	1784	
Kennedy, Anthony M	807	
Kennedy, Thomas S	1929	
Kingsley, Sterling	1775	
Kirtley, James W	1716	
Kramer, Andrew	681	
Landes, Abraham	901	
Lane, James	1832	
Lane, Lewis	221	
Lang, D. M	899	
Larnard, Helen	2116	
Luke, Elizabeth S	1718	
Luttrell, Samuel	1961	
Lyon, Harry	1948	
McElvey, Harmon H	489	
Malloy, John	1996	
Marshall, George	898	
Matlock, John	2032	
Menefee, Mary A	1712	
Mercer, John	900	
Meredith, Frederick	494	
Merritt, Henry	1778	
Morgan, Benajah	1977	
Murphy, Susan S	1979	
Nindeman, William F. C	981	
Owen, L. D	1931	
Pension law, amendment to	100	
Pierce, Eliza B	1837	
Prator, John D	1776	
Ramey, Jonathan	488	
Reed, David	806	
Reed, James, jr	1353	
Renfro, Nancy E	224	

Subject.	Rept.	Vol.
COMMITTEE ON PENSIONS—Continued.		
Riggs, Reuben	1713	7
Russell, William	1833	7
Sanderson, Louis G	1995	10
Sigler, Phebe	1758	7
Simmons, Abraham B	1759	7
Simmons, Margaret C	1784	7
Sisson, Henry	952	4
Slaughter, Ann Mercer	2084	10
Smith, Caroline A	808	3
Smith, James	1781	7
Smith, Meridy	822	3
Staley, Noah	337	2
Tendoy, chief of the Bannock, Shoshone, and Sheepeater tribes of Indians	1830	7
Thomas, Edward	680	3
Tradewell, F. A	707	3
Trimble, Mary E	1862	7
Tucker, Thomas	1998	10
Turner, Margaret	56	1
Waggoner, Sarah J	1639	5
Ware, Perry G	973	4
War with Mexico, increase of pension for	1957	10
Watson, William M	1719	7
Webster, Amelia R	804	3
White, George W	487	2
White, Jeremiah	1764	7
Woodward, William S	485	2
Worthington, Betsey	486	2
Wright, Julia P	1761	7
Young, Anna Maria	447	2
Youngblood, Rebecca M	1962	10
COMMITTEE ON THE POST-OFFICE AND POST-ROADS—		
Convention of first and second class postmasters	1006	4
Exchanges through the mail	1314	5
Free delivery of mail in rural districts	1352	5
Letter-carriers, pay of	1725	7
Mail service	690	3
Mail service, ocean	699	3
Pneumatic postal communication at Philadelphia, Pa	2049	10
Postage on, semiweekly and triweekly publications	1951	7
Post-office appropriation bill	1135	4
Railway postal clerks, salaries of	624	2
Simpson, Isaac S	2125	10
Third and fourth class mail matter	1311	5
COMMITTEE ON PRINTING—		
Bankrupt bill to be printed	2075	10
Bureau of American Republics, to print bulletins of	2146	10
Bureau of Animal Industry, eighth and ninth annual reports of	1339	5
Bureau of Ethnology, eleventh and twelfth annual reports of	1338	5
Chile, President's message respecting relations with, and correspondence, etc	307	1
Civil Service Commission, eighth report of	1337	5
Climatic features of the two Dakotas	2147	10
Coast and Geodetic Survey, report of Superintendent of	1342	5
Commissioner of Education, to print report for 1889–'90, of	2136	10
Commissioner of Labor, seventh annual report of	2137	10
Congress, annals of, etc	365	2
Congressional Directory, maps of Congressional districts in	246	1
Documents, list of	1340	5
European commerce, to print report on	2134	10
European immigration, reports on	1347 2133	5 10

Subject.	Rept.	Vo
COMMITTEE ON PRINTING—Continued.		
Fish and Fisheries, reports of the Commissioner of	1344	
Gamble, John R., eulogies upon	1128	
Geographic names, report of board of	474	
Government Printing Office, site for	687	
Government Printing Office, wages of certain employés of	------	----
Grow and Randall, Speakers, addresses delivered on presentation of portraits of	229	
Horse, special report on diseases of	726 727	
Houk, Leonidas C	364	
House of Representatives, manual and digest of the rules and practice of	762	
Immigration and Naturalization, to print report of House Committee on	2139	
International Geological Congress, proceedings of	1341	
Lee, W. H. F., eulogies delivered in Congress upon	426	
Merchants vessels of the United States, to print list of	2140	
National Academy of Sciences for 1891, report of	1345	
Ordnance and Fortification, report of Board of	1346	
President's annual message	308	
Public printing and binding and the distribution of public documents	1092	
Sanitary engineers, report of	1348	
Senate Report 395, Forty-third Congress	800	
Smithsonian Institution and National Museum, to print reports for year ending June 30, 1891	2141	
Special committee on investigation of Pension Office, to print report on	2145	
Spinola, Hon. Francis B., of New York, eulogies on	2095	
Statistical abstract for the year 1891	2094	
Subcommittees on Trusts, to print report of	2138	
Survey pursuant to act of March 2, 1891	2135	
To amend and supplement the election laws of the United States	1865	
United States, official map of, for 1892	1404	
United States, precious metals in	1208	
Walker, Joseph H., on the question to expunge	799	
Wilson, Hon. E. K., eulogies on	2093	
Yorktown, Va., monument at	1343	
COMMITTEE ON PRIVATE LAND CLAIMS—		
Claiborne, Courtney Ann	1898	
Maxwell land grant	1824	
Metoyer, Benjamin, legal heirs of	1326	
New Mexico and Colorado, land titles in	1253	
Segoura, Raphael	1812	
Williams, Lucretia	1578	
COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS—		
Abington, Va., public lands at	1144	
Public buildings, to erect, build additions, etc., at—		
Allentown, Pa	2109	
Alpena, Mich	1849	
Ann Arbor, Mich	1110	
Anniston, Ala	1097	
Baltimore, Md	2111	
Bedford City, Va	1118	
Boise, Idaho	1111	
Bradford, Pa	1999	
Bridgeport, Conn	2110	
Brockton, Mass	1116	
Brunswick, Ga	1105	
Buffalo, N. Y	1117	
Camden, N. J	1506	
Capitol storage building	2107	

Subject.	Rept.	Vol.
COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS—Continued.		
Public buildings, to erect, building additions, etc., at—		
Cheyenne, Wyo	1119	4
Chicago, Ill	567	2
post-office	566	2
United States Marine Hospital	855	3
Clinton, Iowa	1099	4
Cumberland, Md	1096	4
Decatur, Ill	1528	5
Durham, N. C	1123	4
East St. Louis, Ill	1946	7
Elgin, Ill	1565	5
Elizabeth, N. J	1744	7
Elmira, N. Y	1848	7
Findlay, Ohio	1819	7
Fitchburg, Mass	1820	7
Fond du Lac, Wis	495	2
Gallipolis, Ohio	333	2
Gardiner, Me	1100	4
Hartford, Conn	1821	7
Hastings, Nebr	1098	4
Helena, Mont	1112	4
Henderson, Ky	1976	10
Hoboken, N. J	1794	7
Hot Springs, Ark., sale of school lot at	738	3
House of Representatives, fire in folding room	1456	5
Indianapolis, Ind	1676	7
Jamestown, N. Y	1507	5
Joliet, Ill	1107	4
Kansas City, Kans	2130	10
Kansas City, Mo	1108	4
Keokuk, Iowa, for paving streets	2000	10
Laredo, Tex	1104	4
Little Rock, Ark	1113	4
Logansport, Ind	1823	7
Louisville, Ky., sale of old public building	1106	4
McKeesport, Pa	2112	10
Mammoth Hot Springs	1570	5
Massillon, Ohio	1124	4
Mount Sterling, Ky	1822	7
Muncie, Ind	2108	10
Nashua, N. H	1122	4
Natchez, Miss	1168	4
Newport News, Va	1103	4
New York, N. Y	1742	7
Oakland, Cal	843	3
Paterson, N. J	1102	4
Pine Bluff, Ark	2126	10
Pittsburg, Pa., sale of certain United States property in	1743	7
Plattsmouth, Nebr	2052	10
Pottsville, Pa	1508	5
Providence, R. I	1121	4
Public buildings, plans for	1078	4
Reno, Nev	2127	10
Rome, N. Y	2121	10
Salem, Oregon	845	3
Selma, Ala	1572	5
Spokane, Wash	1109	4
St. Paul, Minn	1252	4
Suspension Bridge	1115	4
Tampa, Fla	1569	5
Waterbury, Conn	1120	4
Wilkesbarre, Pa	1101	4

Subject.	Rept.	Vol.
COMMITTEE ON THE PUBLIC LANDS—		
Arizona, unsurveyed lands within the Atlantic and Pacific Railroad land grant in	992	4
Arizona, settlers on public lands in Tucson land district	1664	7
Arkansas, bonds held by the United States	693	3
Blankenship, John R	788	3
California, University of	253	1
Chelan, Okanogan County, Wash	237	1
Colorado School of Mines	841	3
Dakota, correcting description of certain lands granted to Territory of	385	2
Dealy, David	1950	7
Desert-land laws, lands entered under	1993	10
Des Moines River lands, settlers on	1075	4
Eastport, Me., abandoned military reservations at	1230	4
Entry of certain lands	1204	4
Escambia Lodge No. 15, F. and A. M	565	2
Ferron, Utah, relief of inhabitants of	252	1
Forfeiture of certain lands	1426	5
	1555	5
Gottschalk, C. V	1681	7
Hot Springs, Ark., public reservation	988	4
trustees of Trinity Church	893	3
lot 1, block 72, at	1002	4
Kansas, homes for old soldiers	892	3
Keady, William P	1842	7
Mexican Gulf, Pacific and Puget Sound Railroad Company	1792	7
Mineral lands, examination and classification of	1415	5
Minnesota, public park in	694	3
Montana Mineral Railway Company	854	3
New Madrid, location survey	1542	5
New Mexico, additional land office in	1399	5
New Mexico, unsurveyed lands within the Atlantic and Pacific Railroad land grant in	992	4
Patents to land in certain cases	1975	10
Pittsburg, Fort Wayne and Chicago Railroad Company	842	3
Registers and receivers, fees of	989	4
Talkington, Isaac W., estate of	481	2
	1655	7
Timber and stone lands, purchase of certain	1943	7
Timber-culture laws	915	3
	1495	5
	1379	5
Timber lands, sale of stone, etc., of	482	2
Settlement rights, protection of	1485	5
Settlers on, public lands	483	2
Settlers upon certain lands in North and South Dakota	1870	7
Settlers within railroad land grants	987	4
Swamp-land grants	296	1
	1571	5
Wyoming reservations	1942	7
Yellowstone National Park, boundaries of	1574	5
	1956	10
Yosemite National Park, wagon road across portion of	506	2
Younkin, Mary	1950	7
COMMITTEE ON RAILWAYS AND CANALS—		
Ship canal connecting Lake Erie with the Ohio River	1416	5
Ship canal from Great Lakes to navigable waters of Hudson River	1023	4
Ship canal from Philadelphia to New York Bay, survey of	2002	1
State canals	1022	4
COMMITTEE ON REFORM IN THE CIVIL SERVICE—		
Appointments in the public service	1925	7
Appointment of fourth-class postmasters	1403	5

Subject.	Rept.	Vol.
COMMITTEE ON REFORM IN THE CIVIL SERVICE—Cont'd.		
Baltimore, civil-service law violations	1669	7
Employment of laborers, to exclude political influence of	821	3
Violations of the civil-service law in Alabama	1747	7
COMMITTEE ON THE REVISION OF THE LAWS—		
Certain volunteer and regular soldiers	1381	5
Contracts for supplies, purchased of	1417	5
Grand Army, leave of absence for members during the encampment	1382	5
Office of Congressional correspondence and Department business	479	2
Postal laws, amendment of	696	3
Publication of the Revised Statutes	1955	7
COMMITTEE ON RIVERS AND HARBORS—		
Brunswick, Ga., improvement of outer bar of	1869	7
Jetties, piers, and breakwaters at mouth of Ropes Pass	1675	7
Kansas River, dams across	557	2
Mississippi River, willful injury to public works on	767	3
Navigation of Trinity River, Texas	1841	7
Philadelphia, Pa., improvement	622	2
River and harbor appropriation bill	967 1468	4 5
COMMITTEE ON RULES—		
Civil service investigation	1141	4
Keystone, Spring Garden, and Maverick national banks, investigation of	230	1
Pension Bureau, investigation of	257	1
Census Office, investigation of	961	4
COMMITTEE ON THE TERRITORIES—		
Arizona, admission into the Union	737	3
Arizona, funding act of	441	2
Arizona, ratifying an act of the Legislature of	423	2
Cattle on Cherokee lands, in violation of law	2085	10
Indian Territory and Oklahoma, carriage of passengers by railroads in	1460	5
Indian Territory, mines and mining in	162	1
Oklahoma, district courts of	944	4
funding the county debts of	991	4
reserving land in	1095	4
temporary government for	2054	10
New Mexico, admission of	736	3
capitol building	1575	5
Railroad laws for Indian Territory and Oklahoma	1893	7
Utah, exhibit of Columbian Exposition at	993	4
Utah Territory, local government for	943	3
COMMITTEE ON WAR CLAIMS—		
Abbot, Francis L	1317	5
Abby Ellen (brig)	70	1
Adams, Charles H	349	2
Adams, O. F	521	2
Aldrich, E. J	284	1
Alexander, Thomas L., legal representatives of	1460	5
Alexander, William J	289	1
Allard & Crozier	49	1
Allen, Lewis D.	669 671	2 2
Allen, L D	648	2
Allen, Martha A., administratrix of Wyatt M	597	2
Allsworth, Edward	1186	4
Alsbury, Edward P	219	1
Alsup, John F	848	3
Anderson, A. E	649	2
Anderson, Charles P	1397	5

Subject.	Rept.	Vo
COMMITTEE ON WAR CLAIMS—Continued.		
Anderson, David B., deceased	1166	
Anderson, James C., estate of	1280	
Anderson, Mary H., widow of Hiram	1370	
Anderson, William H	1673	
Andes, Abraham	784	
Antisell, Thomas	389	
Archer, Henry W., legal representatives	79	
Armelin, Charles, estate of	831	
Armistead, Vincent	1271	
Arrears of pay and bounty, settlement of claims	484	
Ashe, John Baptiste, legal representatives of	1132	
Athens, Ala., Cumberland Presbyterian Church of	310 1180	
Atkinson, Mary Ellen, administratrix of Richard	285	
Atlanta, Ga., St. Philip's Church	660	
Atlantic Works	1965	
Austin, Sterling T., heirs of	125	
Avery, John, estate of	1724	
Ayers, Asa B	1270	
Badeaux, Ulger V	1373	
Baker, Sarah K. T	132	
Balzer, Gustavus A	1787	
Bank of Louisiana, creditors of	403	
Banks, Charles	1046	
Barnes, Benjamin S	1523	
Barron, Mary	1017	
Bass, Giles W	650	
Bates, John A	972	
Battelle & Evans	290	
Baudry, Omer	1428	
Baugh, William	1271	
Baynard, Joseph S., and others	1692	
Bazell, James B	312	
Beard, I. B	327	
Beckham, William R	1271	
Bell, Josiah L	1431	
Bell, Mary A	660	
Berks County, Pennsylvania Agricultural Society	698	
Bethel Springs, Tenn., trustees of Presbyterian Church of	311	
Beuter, Francis A	1984	
Bigler, James	1539	
Bigley, Nicholas J	343	
Billingslea, Walter R	649	
Birchett, William G., estate of	1724	
Bishop, Clarissa	1373	
Bishop, James	136	
Black, Joseph	832	
Black, L. E	1280	
Blackistone, Richard P	1362	
Bliss, Francis A	239	
Blinn, Laura	1481	
Bloom, Henrietta Y	832	
Blosser, Joseph	784	
Blue, Solomon, estate of	305	
Boardman, William, legal administrators of	798	
Bolivar (Tenn.) Lodge	598	
Booth, M. A	659	
Booth, Martha A	659	
Boston, Massachusetts Atlantic Works	711 1965	
Botts, Luigi	1888	
Bounty and arrears of pay, settlement of claims for	484	
Boutwell, D. W	433	

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
Bowling, John, heirs of	1545	5
Boyd, L. H	1336	5
Bradford, James M	936	3
Bradley, Horace L	320	1
Branch, Jesse L	1281	4
Brandt, Jesse L	1272	4
Brantly, W. S., executor of J. H.	390	2
Breaux, Pierre	831	3
Brewer, Elvy	657	2
Briant, Mrs. E. H	831	3
Bridger, James	1576	5
Bridges, Sarah E	661	2
Bridgewater, P. H	1408	5
Briscoe, Jackson	670	2
Bristol, Louis H	1374	5
Broadwell, Marcus L	153	1
Brooks, John G. W	32	1
Brooks, William H. H	1488	5
Brott, George F	124	1
Brown, A. M	1281	4
Brown, Florence A	1010	4
Brown, John T	971	4
Brown, M. G	1336	5
Brown, Thomas	650	2
Brown, Thomas J	1042	4
Bruen, John T	535	2
Buckey, Mary E	781	3
Buckholder, Martin, administrator Abraham	784	3
Buckmaster, William P., heirs of	1489	5
Buder, Edward A	607	2
Bugg, J. H., and others	427	1
Burditt, Augustus P	342	2
Burke, Edward, administrator	334	2
Burke, Hannah	1724	7
Burton, Henry H	1429	5
Burton, William	1045	4
Bushby, William	67	1
Butler, Phillip T., and others	785	3
Butt, William	936	3
Cahalan, Edward	576	2
Caine, Catherine	276	1
Caldwell, C. C	1467	5
Caldwell, John R	650	2
California war claims	254	1
Cameron, Emma S	550	2
Cameron, James and Emma S	888	3
Camp Tyler, Ill., owners and occupants of	1637	5
Campbell, George J	1072	4
Campbell, J. M., estate of	1272	4
Candy, Charles	1273	4
Capers, Francis F	1692	7
Caperton, George	650	2
Carl, David and Barbette	1428	5
Carmack, Joseph W	228	1
Carpenter, George	650	2
Carr, Rogers & Co	814	3
Carson, Henry Polite	611	2
Carter, Alfred B	328	2
Cartersville, Ga., First Baptist Church of	292	1
Cazes, Bertrand and Gaudin	47	1
Chapin, Gurden	1188	4

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
Chapman, Henley W	1401	5
Cheek, Mrs. Nelson	785	3
Cheek, R. T	648	2
Chester, Lester P., and others	1288	4
Chouteau, Charles P	50	1
Cristy, John, & Co	350	2
Chum, A. B	651	2
Church and school building, claims for	11	1
Citizens' Bank, Louisiana	340	2
Citizens of Kansas, claims of	602	2
Claims for certain stores and supplies	1552	5
Clapp, George M	268	1
Clapp, Sarah A	274	1
Clara Bell, steamer	1219	4
Clark, James S., estate of	377	3
Clark, Stephen D	241	1
Cleveland, Elizabeth J	1281	4
Clift, William	723	3
Cobb, Blasddell & Co	350	2
Cobb, J. & O. P., & Co	350	2
Cobb, J. & O. P., & Co., surviving partners of	350	2
Cobb, Oliver P	350	2
Cobb, O. P., and others	351	2
Cole, Mrs. S. M	783	3
Coleman, Sarah and Florence	1282	4
Collards, W. H., and others	1330	5
Collins, Joseph	832	3
Columbia bridge, owners of	777	3
Connell, Michael	785	3
Cook, James A	1638	5
Cook, Jared R	649	2
Cook, Matilda	138	1
Cooner, Mary A	936	3
Cooper, Hudson, legal representatives of	776	3
Cordill, Joseph	829	3
Core, A. S	551	2
Cothes, H., heirs of	26	1
Cousens, George Lewis	216	1
Cowper, Leopold C. P	721	3
Crabill, Joseph D., estate of	784	3
Craig, William	1365	5
Cranston, Sarah M	1328	5
Crenshaw, A. L. H	112	1
Crews, Hamilton	345	2
Crider, R. H	37	1
Crider, S. F	131	1
Crompton, Richard	936	3
Cronk, Charles W	1568	5
Crosby, William	783	3
Cross, Joel	660	2
Crow, William	658	2
Crum, Elizabeth and B. L	597	2
Cunningham, Calvin B	391	2
Cunningham, Rachel	936	3
Cummings, Doyle & Co	39	1
Cummings, Phœbe	649	2
Cynthiana, Ky., destruction of property at	413	2
Dalton, Ga., trustees of the Catholic church at	291	1
Danolds, Charles A	655	2
Darly, F. O., estate of	831	3
Davis, A. W	598	2
Davis, Enoch	278	1

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
Davis, Mark, heirs of	33	1
Davis, Marshall	648	2
Davis, Mark, legatees of	1636	5
Davis, Mrs. M. M	649	2
De Bevoise, S. H., estate of	1270	4
Debnam, Thomas R	661	2
Decatte, Owden	832	3
Deems, Lewis	1008	4
Deford, James, heirs of	1651	7
Deitrich, Emily	1279	4
Delahoussage, Sidonie	1370	5
Delille, Jean	1279	4
De Loach, Claiborne, heirs of	1270 1272	4 4
Dennis, Mary A	832	3
Denny, George, sr	522	2
Dent, Warren R	332	2
Deslonds, Mrs. Frank	1370	5
Desmarc, Alphonse	1373	5
Deucatte, Odon	83	1
Dickson, Davidson, and others	392 935	2 3
Dieters, John	1924	7
Dittlinger, Michael	429	2
Doherty, M. A	649	2
Dolman, Jacob	784	3
Donato, Auguste, heirs of	329	2
Donato, Belote A	832	3
Donnell, George O	115	1
Dorr, John H	137	1
Dougherty, Mary A	648	2
Douglas, W. W., administrator	832	3
Downey, Amelia	784	3
Downing, A. B., estate	649	2
Downs, Francis	1365	5
Doyle & Co	39	1
Doyle, Johanna	785	3
Doyle, William	776	3
Driscoll, John J	1184	4
Duffy, Eugenia and W. B	829	3
Dulin, A. F., estate of	1724	7
Duncan, Andrew J., deceased	16	1
Dunklee, William M., administrator	1251	4
Duvall, Tandy	784	3
Dyer, Rachel	262	1
Easterly, Isaac	1281	4
Edwards, Emily	1375	5
Edwards, Sarah Upton	1071	4
Edwards, W. W	1373	5
Eldridge. Hallam	1691	7
Ellen, Abby (brig), owners of	70	1
Elliott, John R	1428	5
Elsaser, John A	1336	5
Elzey, John	829	3
Engelhardt, Margaretha	1935	7
Engs, Samuel F	596	2
Ennis, William B	129	1
Eppes, John W	564	2
Evans, Samuel	1411	5
Fagot, Emile, heirs of	832	3
Falls, Jane	1985	10
Farnighy, Louis O	1499	5
Farley, John A	1280	4

Subject.	Rept.	Vo
COMMITTEE ON WAR CLAIMS—Continued.		
Farnsworth, D. D. T	1670	
Fels, Samuel	134	
Fergusson, George B	69	
Field, John A	654	
Fike, Martha A	936	
Filhiol, Hypolite, and others	45	
Fitzgerald, Michael G	1126	
Flesschert, Martha E	1497	
Fletcher, Nathan, heirs of	600 1179	
Flick, Catharine	784	
Florence Masonic Lodge, Florence, Ala	601	
Flowers, Elizabeth	661	
Forgey, James	1386	
Fourth of July claims	38 1248	
Fraliex, Martin, estate of	660	
Franklin, William A., executor of J. B	1272	
Frasuer, Eli	660	
Frederick, Md., refund of money to	520	
French, Henry S	82	
Frizell, James S	1[illegible]5	
Frobel, Elizabeth D. and Anna S	140	
Fuller, J. B	648	
Fuller, Robert W	1025	
Fusilier, Corinne Perret	831	
Gallagher, Charles	712 713	
Galland, Washington	116	
Gallott, Julia	832	
Gardner, Fannie E	1585	
Garrett. W. F	1281	
Garrison, Nemiah	111	
Garrison, Silas M	936	
Garrot, Pierre	1428	
Gibson, William F	238	
Giddings, Napoleon B	227	
Gilbreath, Simeon	1283	
Gilfoil, Patrick	829	
Gillett, Theodore J	1386	
Gittings, Samuel E	1423	
Glassie, D. W. and Minna H	85	
Gomez, Edwin	398	
Goodloe, Mariam, and others	1481	
Goodrich, A. E. and M. E	832	
Govan, J. J	658	
Graves, Mrs. C. H	78	
Green, Edman	1538	
Greenhill, Thomas C	650	
Gregory, James A	156	
Grimmett, Matthew H	1271	
Grisson, Sarah	653	
Grivot, Maurice, heirs of	376 1427	
Groom, William G	139	
Groves, John H	1165	
Guidry, Lesant, heirs of	831	
Gullory, Martin	832	
Gummo, John W	1813	
Hackney, B. R	321	
Hagerstown, Md	746	
Haigh, A. V	1042	

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
Hall, Goff A	52	1
Hall, Warren	53 1361	1 5
Haller, Jonathan	784	3
Hamilton, G. Dwight	375	2
Hamm, John M	1277	4
Hammon, Jacob	784	3
Hancock, William	1364	5
Handlin, William W	431	2
Harding, Francis E., estate of	1370	5
Harkins, Charles	1383	5
Harris, Thomas D., heirs of	103	1
Harter, Thomas O	849	3
Hartman, Jesse P	315	1
Harvill, Mrs. L. J	651	2
Hathaway, John R	721	3
Havens, Ezra S	114	1
Hayes, Samuel, deceased	1272	4
Hayford, Axel	69	1
Haywood, Mrs. W. Dallas	661	2
Hazen, G. M., and others	934	3
Heard, James A	650	2
Heberer, John	608	2
Heberlein, August, estate of	1270	4
Hebert, Eliza E	54	1
Hebron, Adeline L., estate of	649	2
Heiskell, Ann E	143	1
Henderson, Robert	1183	4
Henkel, Philip	1199	4
Henry, William M	319	1
Henson, Hugh M	42	1
Hernandez, Vidal	745	3
Herr, A. H., estate of	463	2
Hickman, M. T	1279	4
Higgins, John M	605	1
Higgins, Richard, estate of	658	2
Higgins, Thomas L	275	1
Hildreth, William W., deceased	36	1
Hill, Alexander, estate of	832	3
Hill, Joseph A	659	2
Hobbs; Thomas M	1724	7
Hoffman, R. H	322	1
Holbrook, Julia	659	2
Holland, James L., estate of	1271	4
Holmes, Martha W	1412	5
Holsten Female College	1272	4
Holt, C. G., administrator of Wiley	661	2
Holt, John M	1281	4
Honeycutt, Stephen M	850	3
Hoover, Benjamin, estate of	784	3
Hoover, James C	1281	4
Hopper, W. A., administrator of David	649	2
Hopper, William, deceased	17	1
Hough, Fannie	1481	5
Howard, Samuel	13	5
Howland, Juanita	1367	4
Hubbard, Mary Jane	1272	1
Hughes, William	48	1
Hughes, William C	1200	4
Hughes, William H., administrator	43	1
Humboldt Female College	1281	4
Hume, Isaac, estate of	784	3

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
Humphries, Julia A	149	1
Hundley, William T	782	3
Huntsville, Ala., Methodist Episcopal Church of	264	1
Hurdle, Eunice	597	2
Hurley, R. A	2088	10
Huson, W. H	401	2
Interest on money expended in raising troops	555	2
Isgrig, Thomas C	412	2
Izard, Florimond	832	3
Jackson, Miss., Roman Catholic Church	903	3
Jackson, Tenn., First Methodist Church of	15	1
Jean, Francis, sr	832	3
Jefferson County, Ky., claims of certain citizens of	374	2
Jocknick, Gustavus F	612	2
Johnnot, William, and others, legal representatives of	1133	4
Johnson, A. S., administrator of Thomas	318	1
Johnson, Hiram, and others	19	1
Johnson, Joseph B	1271	4
Johnson, Peter	1336	5
Johnson, Richard W	1369	5
Johnson, Rinaldo and Ann E	890	3
Joiner, Nathan	1889	7
Jones, Francis S., estate of	651	2
Jones, Isaac and Thomas C., estate of	648	2
Jones, John	1271	4
Jones, John H	597	2
Jones, John H., heirs of	103	1
Jones, John H., legal representatives of	722	3
Jones, Thomas	648	2
Jordan, R. D., guardian	1272	4
Kaylor, Daniel	1281	4
Keating, Martin	879	3
Keegan, Mary E	330	2
Kelly, Peter, estate of	334	2
Kendall, William, legal representatives of	361	2
Kennedy, Leonora J	832	3
Kennedy, Margaret	95	1
	1671	7
Kergon, Thomas	335	2
Kerr, A. C	657	2
Kibler, Josiah and Jeremiah	784	3
Kilbourn, Benjamin J	1954	7
Kimmons, William M	597	2
King, Thomas J	936	3
Kirchner, George K	606	2
Knight, Isabella	936	3
Knight, Joseph	1428	5
Kolbe, Carl F	96	1
Koons, Anthony	34	1
Kouns, John, surviving partner of George L	1386	5
Kulage, Joseph, heirs of	1033	4
Labell, Charles	657	2
La Fayette Female Seminary, Colbert County, Ala	650	2
Lafferty, James	658	2
Lafleur, Ben M	832	3
Lafleur, Jean Pierre	832	3
Lafleur, Marcelin	832	3
La Grange Synodical College	29	1
	650	2
Lake, Daniel, deceased	1047	4
Lam, James, estate of	783	3
Lamar, Robert G	1025	4

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
Lanier, N. B	649	2
Large, William	395	2
La Rue, Maria D	783	3
Lastrapres, Victor	832	3
Lauderdale, Elizabeth	936	3
Lavery, William	1471	5
Lawhead, William, administrator of John	327	2
Lawrence, L. J	1280	4
Lazare, Jean Baptiste, estate of	329	2
Leduff, Alexis	832	3
Lee, A. S	281	1
Lee, John	1298	4
Lee, Lucy Ann and Allen G	287	1
Lefoldt, Julius	785	3
Leftwich, Gertrude A	28	1
Legg, A. C., deceased	1274	4
Leiper, John	1281	4
Lemelle, Charles	832	3
Lemelle, E	1279	4
Lemelle, Leon	832	3
Lemelle, Ludger, estate of	832	3
Lemelle, Rigobert, estate of	832	3
Lement, Pierre	832	3
Lewis, Abner D	658	2
Lillard, B., estate of	1278	4
Linn, Jane	152	1
Lipscomb, James C	1268	4
Litten, Julius B	1271	4
Little Rock and Memphis Railroad Company	885	3
Livers, Fanny S	1500	5
Livingston, Anne C	68	1
Logan, Mary T., widow of A. L	651	2
Long, Henry W	657	2
Long, William R	936	3
Loudon County, Va., loyal citizens of	1018	4
Lovelace, Emma C	241	1
Lovell, Louisa Q., and others	12	1
Lovell, Margaret Jane	1366	5
Lowe, William W	1127	4
Luchman, William	785	3
Lusk, Soloman	434	2
Lutz, Andrew	141	1
Lutz, Morris	784	3
Lynch, John A	1577	5
McBrayer, John H	1543	5
McCann, Michael	1191	4
McClintock, Joseph B	148	1
McConnell, C. J	419	2
McCool, Wells C	466	2
McDaniel, John A	657	2
McElhose, James B	1704	7
McGloughlin, Virginia	329	2
McGuffee, G. V., sr	332	2
McLaughlin, Ammon	1386	5
McLaughlin, Nelson	317	1
McLean, Louisa E	1272	4
McLellan, Leander C	1594	5
McLemore, Sarah L., administratrix of John C	333	3
McLeod, Daniel, legal administrators of	797	3
McMinnville, Tenn., Cumberland Female College	18	1
McMurtrey, John	1271	4
McNairy, Hugh	126	1
McNamara, Stephen	1275	4

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
McNeill, John C	661	2
Macon City, Mo., Catholic Church	1592	5
Maddox, Laura E	886	3
Maddox, Margaret Virginia	970	4
Madison Female Institute	1050	4
Magill, Lydia A., administratrix	323	2
Mahon, Eliza Jane	652	2
Marklein, Charles	470	2
Marsh, Samuel	151	1
Marshall, Levin R., executors of	260	1
Marshall, Mo., The Christian Church	1065	4
Martin, Cyrus	554	2
Martin, John J., heir of Joseph	1279	4
Martinsburg, W. Va., St. Joseph's Catholic Church at	211	1
	467	2
German Evangelical Church	212	1
Methodist Episcopal Church	213	1
	465	2
Mastick, Henry, administrator of	1058	4
Mastin, Claude H	150	1
Matheny, Thomas M	396	2
Matlock, E. S., estate of	597	2
Matthews, William D	72	1
Meador, Zaddock	661	2
Meaher, Timothy, administrator of J. M	651	2
Meeha, Catherine Barry	346	2
Methodist Episcopal Church South, book agents of	20	1
Meuillon, Alphonso	832	3
Meuillon, Francis	329	2
Meuillon, Lucien	832	3
Michigan Cavalry, expenses of First	436	2
Middletown, Md	747	3
Miles, William T	1053	4
Miller, David	1146	4
Miller, James	662	2
Millet, Francis	359	2
Milley, S. B., administrator of Mary E	784	3
Minors who were discharged from the Army	896	3
Missouri, claims of militia organization of	695	3
Mitchell, James A	657	2
Mitchell, Sophia G	652	2
Mixon, William	1650	7
Mobile and Girard Railroad Company	341	2
Mobile Marine Dock Company	46	1
Moffitt, Alexander	31	1
Moiety claims of officers and crews of the Navy	242	1
Monahan, Mary E	327	2
Moneys collected by the United States, refund of	1363	5
Montgomery, Hugh	1279	4
Montgomery, Mary Ann	1691	7
Montgomery, Olivia F., and others	332	2
Montgomery, Pearson C	30	1
	1649	7
Montgomery, Robert H	461	2
Moody, B. F., & Co	279	1
Moonlight, Thomas	828	3
Moore, Stativa, and others	330	2
Moore, Stephen, administrator	17	1
Morehead City, N. C., Methodist church	1430	5
Morgan, Jesse B	936	3
Morgan, Robert E	77	1
Morgan, William S	936	3

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
Morin, Catherine, heirs of	133	1
Morrow, William B	282	1
Moseley, William, jr	1695	7
Mount Zion Society	439	2
Mower, Joseph A., legal representatives of	1307	5
Mullin, Mary P	1335	5
Mullins, Martin	1189	4
Munday, G. W., administrator	832	3
Murdock, Emily	1371	5
Murphy, Dennis, sureties of	575	2
Murphy, James	649	2
Murphy, James, heirs of	1489	5
Murphy, J. J	330	2
Murray, Francis M	35	1
Musgrave, Emeline E	303	1
Nalley, Samuel M	302	1
Nash, Joseph C	85	1
Navy, moiety claims	242	1
Neal, W. H., estate of	1280	4
Neck, George, sr	832	3
Neet, John S., jr	225	1
Neidlinger, Charles V	1007	4
Nelson, John N	938	3
Nevada, claims of certain persons in	117	1
war claims of	254	1
Newell, Jane, estate of	1281	4
Newell, Jesse C	1333	5
New Haven, Conn., National New Haven Bank	667	2
Newman, James M	524	2
New Orleans, Union National Bank	86	1
Odd Fellows' Hall Association	405	2
New York, duties paid by the State on arms imported in 1863	1034	4
Nichols, Frank H., estate of	243	1
Nixon, Henry C	661	2
Noble, Lester	480	2
Noland, William H	1280	4
Northrup, Charles, estate of	1270	4
Nutt, Julia A	1800	7
Oakley, E. C., administrator	1280	4
O'Brien, William D	314	1
Ockerson, Daniel J	283	1
Odle, H. D	1798	7
Oglesby, I. T	1433	5
Okolona, Miss., Independent Order of Odd Fellows	648	2
Oliver, James M	1406	5
Orbison, Josiah B	1844	7
Oregon, war claims of	254	1
Orr, George A	1222	4
O'Shea, P. T	649	2
Otis, Samuel	69	1
Overton Hotel Company	331	2
Owen, Isham T	1496	5
Paillett, Hilliare, estate of	832	3
Parish, J. W	430	2
Parker, Rebecca V., estate of	832	3
Patterson, David K	648	2
Patton, S. K. H	313	1
Payne, James, & Co	75	1
Payne, William B	259	1
Pedersen, Mathias	1201	4
Peeden, Martha J., administratrix of Haywood	1271	4

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
Pelletor, E. W	661	2
Pemberton, Fannie	306	1
Pennsylvania, war claims	166	1
reimbursing State for money expended for militia service	167	1
Perkins, Moses	111	1
Perry, O. H., administrator	1801	7
Peters, John L	613	2
Phillips, James B	1466	5
Phillips, John C	1890	7
Phillips, O. P	388	2
Pierce, Charles H	1297	4
Pitcher, William	69	1
Pitzer, T. T	1409	5
Platte County, Mo	1796	7
Platte City, Mo., Masonic Lodge; Presbyterian Church	1031	4
Point Pleasant, W. Va., Methodist Church	827	3
Poitevent, William T	1652	7
Poland, Alexander, estate of	394	2
Pollard, A. W	128	1
Ponder, D. K	778	3
Pope, Daniel L., and others	1025	4
Porche, Louis V	1428	5
Poullain, Mildred P	417	2
Powel, Sarah A	327	2
Pratt, Albert J	1385	5
Priddy, John D., heirs of	1958	10
Priest, Matthew S	435	2
Pritchard, Catharine M	399	2
Quarles, W. A	1009	4
Quintard, George W	1049	4
Rabot, Jean Baptiste	832	3
Randolph, J. P	609	2
Randolph, Mary B. T., and others	592	2
Rather, James	1281	4
Ray, Vienna	784	3
Raymond, William G	1070	4
Rea, John A., estate of	1287	4
Redmond, Karoline C	1425	5
Reed, Thomas B	1192	4
Reeves, George W., estate of	659	2
Regan, James	288	1
Reilly, John	995	4
Reitz, Jonas F	1336	5
Restle, Leger	330	2
Rhea, John L., executor of Samuel	358	2
Rhodes, John, and wife	144	1
Rice, W. H	650	2
Richards, Alonzo H	936	3
Richards, Amelia A. H	400	2
Ripley, E. W., estate of	832	3
Ritchie, Cordelia A	796	3
Roach, Benjamin	332	2
Roach, John	710	3
	1048	4
Robb, William N	1544	5
Robertson, Anthony	784	3
Robertson, Mary H. S	51	1
Rodgers, Benjamin F	244	1
Romine, Mary J	936	3
Rose, Merritt	154	1

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
Rowland, Thomas F	709	3
	1964	7
Rudd, J. C	142	1
Russell, Gerald	1368	5
Rutledge, Margaret J. and Mary	963	3
Ryan, M. B	1193	4
St. Charles, Mo., College	215	1
	1181	4
Salinas, Miguel	123	1
Sammis, John S	145	1
Sanders, David B	27	1
Sanders, John C., administrator	1278	4
Sanders, W. W	832	3
Sanderson, W. F	832	3
Sanford, Martha Ann	658	2
Saulpaw, George W	1986	10
Saunders, Edwin E	1386	5
Saunders, Henry S	300	1
Sauppe, Valentine	88	1
Savannah, Mo., Christian Church	1030	4
Scanlan, Mrs. W. H., widow of R. M	830	3
Schaumburg, James W	344	2
	1405	5
Schellhous, R. A	1182	4
Scott, John D	659	2
Scott, Samuel	649	2
Scott, Mrs. W. A	1280	4
Scoville, W. T	1386	5
Seabrook, James B	1025	4
Sessions, Franklin	648	2
Shacklett, H. W	604	2
Shade, George	1336	5
Shadel, Henry A., heirs of	1386	5
Shaffer, C. M	214	1
	464	2
Sheely, Mrs. Ann	829	3
Sheetz, Samuel, estate of	784	3
Shelby, J. C	1221	4
Shirley, Mrs. A	84	1
	1657	7
Short, Hatcher and Hiram	563	2
Sides, David	936	3
Sigur, John A	831	3
Simerley, Mary E	672	2
Simmons, H. S., estate of	1272	4
Simmons, J. W	659	2
Simpson, Cassa	1271	4
Sims, James	418	2
Singleton, H. C., estate of	1281	4
Smallwood, Howard F	781	3
Smith, Alfred	240	1
Smith, A. J	651	2
Smith, David D	1864	7
Smith, Dudley D., heirs of	1386	5
Smith, Grafton F., administrator of David	277	1
Smith, James W	783	3
Smith, Nancy C. and others	597	2
Smith, Sarah E. B	1647	7
Smith, Sarah G	110	1
Smith, Vasti	661	2
Smyser, Jacob H	1185	4
Snyder, James A., executor of Jacob	783	3

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
Solair, Fannie	829	3
Somerville, Hiram	304	1
Soutter, William R	980	4
Sowers, Frank S	1429	5
Sparks, D. M., estate of	651	2
Spaugh, Robert	265	1
Spaulding, R. A., administrator	305	1
Speck, David, estate of	783	3
Sprinkle, S. D	1351	5
Stack, Thomas	1490	5
Stanley, William	1422	5
Starn, Levi	553	2
States, examination and settlement of accounts of certain	220	1
claims of, for defense of United States	552	2
interest on money expended in raising troops	555	2
Stewart, James	1187	4
Stiff, Martha	1387	5
Stirman, Thomas V., deceased	157	1
Stoddard, Alexander	261	1
Storer, Abraham	783	3
Stores and supplies, claims for	1510	5
	1552	5
Stork, Conrad	785	3
Stovall, J. H	48	1
Strickland, Jesse H	217	1
Sugg, L. D	393	2
Sullivan, John	218	1
Summer, Margaret	649	2
Swart, Barnett T	656	2
Swartz, David	784	3
Swoope, Susannah P	80	1
Taggart, C. C	1012	4
Talbott, Jacob T	1269	4
Tate, Sally Sterrett	147	1
Tatin, Jean Marie	832	3
Taylor, George W., estate of	783	3
Taylor, James, heirs of	1487	5
Taylor, Jane	1724	7
Taylor, Jane L	74	1
Taylor, Stewart	1190	4
Taylor, William E., and others	936	3
Thompson, George W	784	3
Thompson, John B	1206	4
Thompson, Lewis	997	4
Thomson, A. C	126	1
Thorne, John D	146	1
Tillman, Francis	1057	4
Timberlake, S. R	1280	4
Tolson, John T	1432	5
Torrey, Joseph	1133	4
Travilla, Robert	286	1
Travis, W. C. M	130	1
Traweek, Mrs. E. L	657	2
Tucker, T. M	327	2
Turland, Donophon	832	7
Turley, William H	1486	5
Turner, George	316	1
Turner, Zeph	534	2
Tuscumbia Masonic Lodge	650	2
Underwood, John C	1276	4
Unsell, David, deceased	43	1
Urban, Anna M	1296	4

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
Urquhart, C. Augusta	397	2
Valleau, Sarah J	832	3
Vanciver, Robert R	76	1
Vaughan, W. H	155	1
Vauquat, Louis	329	2
Verdin, Romain, estate of	831	3
Vignes, Polona	832	3
Von Haake, Adolph	1567	5
Wagner, George	1058	4
Wakefield, Molisa O	960	3
Walker, Dabney, widow of	887	3
Walker, Julius	659	2
Walker, T. J	1280	4
Wallace, Thomas	658	2
Walls, Joseph L	780	3
Ward, Enoch P	458	2
Ware, Henry	44	1
Warterfield, P. F., deceased	1131	4
Washington, Lewis W	469	2
Wasson, Richard F., legal representatives of	1278	4
Watkins, Nancy J	650	2
Weaver, Tilghman, heirs of	1672	7
Webb, William S	650	2
Webster, I. B	113	7
Wells, James	1692	7
Wesson, Randolph	81	1
Westmoreland, Mary N	1271	4
West Virginia, refund of money to	468	2
Wheat, Isaac H	560	2
Whitaker, William	649	2
White, Thomas W	561	2
White, Zachariah J	1011	4
Whitney, Franklin S	509	2
	1802	7
Wilcoxen, J. Stephen	475	2
Wilhite, H	1891	7
Wilkes, Benjamin	815	3
Wilkes, Frances	1271	4
William and Mary College of Virginia	562	2
	1207	4
Williamson, A. O	1271	4
Williamson, John E	1206	4
Willis, Edward B	649	2
Wilson, Thomas W	936	3
Wilson, William D	102	1
	1656	7
Wilson, William F	462	2
Wolf, Edmund, heirs of	438	2
Wolfe, William	682	2
	1249	4
Wolfson, Caroline L., widow of Jacob A	1279	4
Wood, Gerard, heirs of	404	2
Woodbridge, William E	177	1
	1393	5
Woods, Samuel, legal representatives of	1410	5
Woodson, Tarleton, heirs of	1642	7
Worcester, Alfred J	226	1
Worthington, Hugh, heirs of	556	2
Wyatt, James H	457	2
Wyoming (steamship), crew of	360	2
Wyrick, James R	280	1
Wytsinger, John	1271	4

Subject.	Rept.	Vol.
COMMITTEE ON WAR CLAIMS—Continued.		
Young, Thomas L	684	2
Youngblood, Sarah E	1538	5
COMMITTEE ON WAYS AND MEANS—		
Amendment to section 3355, Revised Statutes	2046	10
Bagging for cotton, etc	503	2
Binding twine	502	2
Ores, silver-lead	1372	5
Rate of duty on chocolate	1436	5
System of subtreasuries	2143	10
Tin plate, terne plate, and taggers' tin	1040	4
Transportation of dutiable merchandise	173	1
Wearing apparel and personal effects admitted free of duty	1537	5
Woolen goods, to place wool on the free list and reduce duties on	501	2

INDEX TO HOUSE REPORTS.

DIVISION NO. 3.

SUBJECT OF REPORTS AND BY WHOM MADE.

Subject.	Rept.	Vol.
ABBOTT, JO.		
From Committee on Public Buildings and Grounds.		
To erect public buildings at—		
Hastings, Nebr	1098	4
Laredo, Tex	1104	4
Little Rock, Ark	1113	4
Mount Sterling, Ky	1822	7
ALEXANDER, SYDENHAM B.		
From Committee on Agriculture.		
Angora goats, importation and maintenance of	1094	4
Diseases of the horse	727	3
Domesticated reindeer in Alaska	1093	4
ALLEN, JOHN M.		
From Committee on Indian Affairs.		
Gainesville, McCallister and St. Louis Railway Company	386	2
Gainesville, Oklahoma and Gulf Railway Company	387	2
AMERMAN, LEMUEL.		
From Committee on Public Lands.		
Escambia Lodge, No. 15, F. and A. M	565	2
Patents to land in certain cases	1975	10
Kansas, homes for old soldiers	892	3
Mineral lands, examination and classification of certain	1415	5
Minnesota, public park in	694	3
Pittsburg, Fort Wayne and Chicago Railroad Company	842	3
Yosemite National Park, wagon road across portion of	506	2
ANDREW, JOHN F.		
From Committee on Foreign Affairs.		
Gallagher, Thomas	1921	7
Red Cross Association	1790	7
Trade relations with Mexico	1145	4
From Committee on Reform in the Civil Service.		
Alabama, violations of the civil-service law	1747	7
Fourth-class postmasters, appointment of	1403	5
To exclude political influence in the employment of laborers	821	3
ATKINSON, LOUIS E.		
From Committee on Claims		
Crawford, James S	905	3
Gonzales, Nasario	1073	4
Little, John	786	3
McLean, Sarah K	1668	7
Reeves, Clement	2117	10
Williams, Hobart	986	3
From Committee on Merchant Marine and Fisheries		
American registry of ships built in foreign countries (views of minority)	966	4
BACON, HENRY.		
From Committee on Banking and Currency.		
Branch National Bank at World's Columbian Exposition	1136	4
International American Bank	985	4
National banks, better control of and to promote the safety of	233	1

Subject.	Rept.	Vol.
BANKHEAD, JOHN H.		
From Committee on Public Buildings and Grounds.		
Armiston, Ala	1097	4
Clinton, Iowa	1099	4
Cumberland, Md	1096	4
Indianapolis, Ind	1676	7
Selma, Ala	1572	5
Tampa, Fla	1569	5
BARWIG, CHARLES.		
From Committee on Pensions.		
Hallam, John	1907	7
BELKNAP, CHARLES E.		
From Committee on Military Affairs.		
Belger, Fannie N	962	4
Boyd, Augustus	455	2
Brownson, Leonard L	1768	7
Burlington and Highgate, Va., military post on line of railway between	297	1
Campbell, Benjamin F	1770	7
Davis, John M	1756	7
Finley, James A	716	3
Heuston, Charles E	1054	4
Hugo, William H	873	3
Klauser, Emanuel	1522	5
Lane, Henry	1769	7
Little Rock, Ark., military post near	757	3
Long, James W	1140	4
McLean, Sarah K	1313	5
McMahan, John	382	2
New Bedford, Mass., public park	1398	5
Pierce, William	1754	7
Ransom, Dunbar R	1776	7
San Diego, Cal., harbor defenses	756	3
Schwaz, Christian	1310	5
Semmler, Louis	1309	5
Smith, William, and others	1772	7
Stanley, David S	1245	4
Stivers, Charles B	1767	7
Ulrich, Ernest	1771	7
Winder, William A	108	1
BELTZHOOVER, FRANK E.		
From Committee on Railways and Canals.		
Survey of ship canal from Philadelphia to New York Bay	2002	10
From Committee on War Claims.		
Antisell, Thomas	389	2
Archer, Henry W., representatives of	79	1
Berks County (Pa.) Agricultural Society	698	4
Brantly, W. S., executor of J. H	390	2
Bruen, John T	535	2
Chester, Lester P., and others	1288	4
Columbia Bridge, Pennsylvania, legal owners of	777	3
Fourth of July claims	1248	4
Frederick, Md	520	2
Graves, Mrs. C. U	78	1
Hagerstown, Md	746	3
Jackson, Miss., Roman Catholic Church	903	3
Kennerly, Charles M	1218	4
Lavery, William	1471	5
Middletown, Md	747	3
Miller, David	1146	4
Minors, pay and allowance to those discharged	896	3
Morgan, Robert E	77	1
Moseley, William, jr	1695	7

Subject.	Rept.	Vol.
BELTZHOOVER, FRANK E.—Continued.		
From Committee on War Claims.		
Noble, Lester	480	2
Pennsylvania, war claims of	166	1
money expended in militia service by	167	1
Sauppe, Valentine	88	1
Swoope, Susannah P	80	1
Vandiver, Robert R	76	1
Whitney, Franklin S., legal representatives of	509	2
William and Mary College, Virginia	562 1207	2 4
Wolf, Elmund, heirs of	438	2
BENTLEY, HENRY W.		
From Committee on the Eleventh Census.		
Eleventh Census	1708	7
From Committee on Railways and Canals.		
Ship canal from the Great Lakes to the navigable waters of the Hudson River	1023	4
BERGEN, CHRISTOPHER A.		
From Committee on the Post-Office and Post-Roads.		
Mail service	690	3
From Committee on Railways and Canals.		
State canals	1022	4
BINGHAM, HENRY H.		
From Committee on Military Affairs.		
Fort Mifflin, sale of certain lands	1944	7
BLANCHARD, NEWTON C.		
From Committee on Rivers and Harbors.		
Appropriation bill	967	4
Dams across Kansas River	557	2
BLAND, RICHARD P.		
From Committee on Coinage, Weights, and Measures.		
Gold and silver bullion, free coinage of	249 1839	1 7
BLOUNT, JAMES H.		
From Committee on Foreign Affairs.		
Diplomatic relations with foreign countries	891	3
Reciprocal commercial relations with Canada	1957	10
BOATNER, CHARLES J.		
From Committee to Investigate Charges Respecting Conduct of Members on the Floor of the House.		
Report of investigation	2132	10
From Committee on the Judiciary.		
District of Columbia, police court of	1926	7
Ley, John Henry	2078 2083	10 10
Questions of fact	189	1
Trade and commerce, to protect	1418	5
From Committee on Reform in the Civil Service.		
Violations of the civil service law at Baltimore	1669	7
BOWERS, WILLIAM W.		
From Committee on Military Affairs.		
Anderson, Allen	589	2
Bamfield, James	579	2
Behle, Charles H	1220	4
Britton, William	1088	4
Butler, John M	588	2
Casey, Robert	104	1
Cole, Broad	586	2
Donaldson, Mary E	811	3
Dyer, Lucius L	1521	5
Eckerson, George W	362	2

Subject.	Rept.	Vol.
BOWERS, WILLIAM W.—Continued.		
From Committee on Military Affairs.		
Ferrell, Hugh	584	2
Freeman, R. V	591	2
Garrard, Charles T	592	2
Gassett, John W	578	2
Grant, Chester F	107	1
Gray, James E	106	1
Grugett, Andrew L	595	2
Hart, Rodman	876	3
Henry, George M	1811	7
Kale, Wilson	1396	5
Kelly, Francis J	1402	5
Lake, Romantus	748	3
McLean, Cornelius	594	2
Markham, Pleasant	585	2
Millican, William	878	3
Moore, Robert	581	2
Price, William B	1090	4
Randleman, John H	744	3
Schachleiter, George W	1091	4
Speigleburg, Wilhelm	1658	7
Stimson, Hiram	258	1
Taylor, John W	1461	5
Thurmond, Harrison	590	2
Wackerly, Joseph	1087	4
Wagnon, Thomas D	582	2
Ward, Daniel	587	2
Warrender, Samuel	577	2
Wells, Edwin A	877	3
Whitham, Charles	583	2
Wilkinson, Warren W	1520	5
Williams, Isaac	580	2
Williams, Joseph C	593	2
From Committee on Pensions.		
Donaldson, Mary E	811	3
BRAWLEY, WILLIAM H.		
From Committee on Indian Affairs.		
Southern Ute Indians	1205	4
Uncompahgre Reservation, changing boundary of	1076	4
BRECKINRIDGE, WILLIAM C. P.		
From Committee on Appropriations.		
Fortification appropriation bill	1257	4
Sufferers by overflow of the Mississippi River in Warren County, Miss	1419	5
BRICKNER, GEORGE H.		
From Committee on Expenditures in the Treasury Department.		
Assistant and chief clerk, office Supervising Architect, Treasury Department	1212	4
Supervising Architect, salary of	1211	4
Leaves of absence for certain officers and employés of the Customs Service	1213	4
From Committee on Interstate and Foreign Commerce.		
Beacon lights and buoys on Willamette River	1256	4
Light-houses and other aids to navigation	1041 1458	4 5
Pansey, light-house steamer	986	4
Signal display station, Middle and Thunder Bay islands, Lake Huron	1501	5
Squan Inlet light-station, New Jersey	965	4
Tibbetts Point, Lake Ontario, New York, fog signal at	1648	7
Tybee Island, Georgia	916	3

Subject.	Rept.	Vol.
BRODERICK, CASE.		
From Committee on the Judiciary.		
United States courts, fees of jurors and witnesses in certain States and Territories	424	2
District of Kansas, third division	571	2
From Committee on Printing.		
Houk eulogies	364	2
House Manual and Digest	762	3
Board of Ordnance and Fortifications, report of	1346	5
National Academy of Sciences for 1891, report of	1345	5
BROOKSHIRE, ELIJAH V.		
From Committee on the Post-Office and Post-Roads.		
Pneumatic postal communication at Philadelphia, Pa	2049	10
BROSIUS, MARRIOTT.		
From Committee on Reform in the Civil Service.		
Alabama, violations of the civil-service laws in, views of minority	1747	7
BROWN, JASON B.		
From Committee on Elections.		
Craig *vs.* Stewart	367	2
BRUNNER, DAVID B.		
From Committee on Private Land Claims.		
Metoyer, Benjamin, legal heirs of	1326	5
Williams, Lucretia	1578	5
BRYAN, WILLIAM J.		
From Committee on Public Buildings and Grounds.		
Lincoln, Nebr	728	3
From Committee on Ways and Means.		
Binding twine	502	2
BUCHANAN, JAMES.		
From Committee on the Judiciary.		
Biggs, Asa, estate of	750	3
Brockenburg, John, estate of	749	3
Centennial Board of Finance	1150	4
Evanston, Wyo., term of United States court at	984	4
Jurisdiction of the district and circuit courts of the United States	271	1
United States courts, form, practice, and proceedings in actions in	994	4
From Committee on Patents.		
Statutes relating to patents	1494	5
BUCHANAN, JOHN A.		
From Committee on the Judiciary.		
Amendment to the Constitution	294	1
Appeals in capital cases	1607	5
Appeals to Supreme Court	1825	7
Assembling of Congress	810	3
Corporate sureties in Federal courts and departments	1229	4
Judgment sales	270	1
Revised Statutes of the United States, section 856	801	3
Sales of leaf tobacco	940	3
Uniform system of bankruptcy, views of the minority	1674	7
From Committee on Merchant Marine and Fisheries.		
Regulating the fisheries	1350	5
BULLOCK, ROBERT.		
From Committee on Claims.		
Blum, Emile M	1828	7
Bond, William & Co. and others	1519	5
Bonfoey, Davis B., heirs of	794	3
Bonfoey, Davis B. and Emma W., heirs of	1829	7
Day, Nancy E	1600	5
Denham, Merril	1797	7
Eggleston, J. R	1603	5

Subject.	Rept.	Vol.
BULLOCK, ROBERT—Continued.		
From Committee on Claims.		
Florida, claim of	273	1
Jennings, R. L	2042	10
Otis, George K., legal representatives of	1726	7
	2044	10
Scott, W. T. and others	882	3
	1284	4
Seymour, James M	1828	7
Southern Railroad Association	1579	5
Tallapoosa, United States steamer, sufferers by wreck of	2043	10
Teed, Theodore, heirs of	1763	7
Willbur, James M	921	3
	1599	5
BUNN, BENJAMIN H.		
From Committee on Claims.		
Betts, Nichols & Co	97	1
Blackburn, W. Jasper	1464	5
Blaisdell, Albert	741	3
Bonner & Merriman	766	3
Bouldin, Briscoe B	742	3
Brandt, Charles T	1721	7
Burton, Patrick P., widow of	1584	5
Charleston, S. C., Citadel Academy	1720	7
Cowles, Calvin J	930	3
Freyre, Mrs. Luis	1465	5
Gaugers and other internal-revenue employés	371	2
Goodloe, G. C	904	3
Gulic, Benjamin F	1583	5
Gutherie, Louisa S	720	3
Hanna, George B	930	3
Haxthausen, Joseph	89	1
Haynes, James J	1476	5
Hurley, Edward	1773	7
Hollcroft, Elijah P. T	91	1
Hosack, W. S	378	2
Howard, W. H	931	3
Kennedy, P. B	764	3
King, J. D	765	3
Kirkpatrick, S	2074	10
Kountz, W. J	763	3
Landram, William J	1474	5
Lewis, John W	1581	5
Lutterloh, Thomas	1723	7
	2037	10
Maddox, Martin	1722	7
Merriam, J. E	1475	5
Noble, Noah, heirs of	92	1
Quinn, William H	370	2
Raleigh, N. C	1697	7
Ramsey, F. G	90	1
Read, John B	372	2
	779	3
Reiner, Herman	1613	5
Reiner, Herman, jr	1613	5
Rother, Frank	1582	5
Setzer, Henry	373	2
Shannon, Joseph R	1062	4
Smith, W. J	1480	5
Tapp, W. J. & Co	93	1
Trenton and *Vandalia*, ships, wreckage of	824	3
Treutlen, John R., heirs of	369	2
Wachner, S	2073	10

Subject.	Rept.	Vol.
BUNN, BENJAMIN H.—Continued.		
From Committee on Claims.		
Wisdom, D. M	1480	5
Young, John L	1612	5
BUNTING, THOMAS L.		
From Committee on Labor.		
Investigation of the slums of cities	625	2
Labor statistics	514	2
BUTLER, WALTER H.		
From Committee on Invalid Pensions.		
Army nurses	802	3
Atherton, Amanda	858	3
Banister, Elizabeth M	1299	4
Brainard, Martha Noble	1236	4
Chamberlin, Mary	1443	5
Corcoran, Mary J	1590	5
Cowgill, Sarah	1450	5
Criner, Eliza A	1808	7
Cullen, James	1914	7
Davis, Annie	1919	7
Doolittle, Esther	41	1
Eicks, William	982	3
Evidence in application	627	2
Goff, Ellen	529	2
Green, Ann M	1915	7
Henderson, Sarah L	40	1
Johnson, Anna P	1235	4
Judd, Joanna	1618	5
Kagwaich, Sophia	1880	7
Leach, Orinda	770	3
Locke, Sarah J	1738	7
Lomasney, Susan	1392	5
McGeorge, Betsey	2063	10
McNeil, Jane	1740	7
Millard, Mary	1162	4
Miller, Martha E	2062	10
Morris, Jennie B	459	2
Noble, Sarah A	1451	5
Northrup, Anson	2066	10
Northrup, Anson, views of the minority	2066	10
Pangborn, Sarah L	1645	7
Parsons, Marrilla	1434	5
Reik, Emily	1739	7
Ronaldson, Sarah L	1234	4
Sheldon, Thomas F	2003	10
Shierry, Jane	57	1
Sipp, Mary A	857	3
Smith, Sarah F	1881	7
Stewart, Electa Ann	1646	7
Stiers, Ivy	1449	7
Swigart, Sallie M	771	3
Thompson, Lodusky	1882	7
Tompkins, Julia S	1161	4
Van Nest, Sarah L	2004	10
Voss, Elizabeth	1160	4
White, Cecelia	530	2
Wolcott, Sabra A	1300	4
BYNUM, WILLIAM D.		
From Committee on the Eleventh Census.		
Report on wages	1315	5
From Committee on the Judiciary.		
Amending the internal-revenue laws	159	1

Subject.	Rept.	Vol.
BYNUM, WILLIAM D.—Continued.		
From Committee on the Judiciary.		
Deeds and other records of the office of Indian Affairs	1316	5
Desecration of United States flag	541	2
Missouri, western district of, times for holding courts	755	3
Payment of certain moneys to South Carolina	1262	4
Protection of persons furnishing material and labor for the construction of public works	1973	10
Supreme court, Oklahoma, additional associate justices	1413	5
BYRNS, SAMUEL.		
From Committee on Claims.		
Bishop, Joshua	2025	10
Booth, James C., deceased	379	2
Brice, William, & Co., and others	2018	10
Burks, John M	2017	10
Chambers, Thomas	1062	4
Council Bluffs, Iowa	793	3
Finn, John	2024	10
Guineau, Thomas	380	2
Hammaker, W. S	2026	10
Hunter, Samuel G	1064	4
Jones, Benjamin F	2011	10
Manning, James	2019	10
Nebraska, reimbursement of certain money	1541	5
Ross, Mary L	1063	4
Rowena, scow	381	2
Selby, Arthur P	1069	4
Waite, C. S	2020	10
Winslow, Nathan C. and Hezekiah J., heirs of	2012	10
Woodson, Daniel	880	3
CABLE, BENJAMIN T.		
From Committee on Foreign Affairs.		
Additional compensation to assistant commissioners, Melbourne Industrial Exhibition	1378	5
Barnes, George W	1384	5
CADMUS, CORNELIUS A.		
From Committee on District of Columbia.		
Reformatory and House of Detention	846	3
From Committee on War Claims.		
Abbott, Francis L	1317	5
Benter, Francis A	1984	10
Bigler, James	1539	5
Burton, Henry H	1424	5
Candy, Charles	1273	4
Falls, Jane	1985	10
Gittings, Samuel E	1423	5
Harkins, Charles	1383	5
Hurley, R. A	2088	10
Johnson, Richard W	1369	5
Miles, William T	1053	4
Mower, Joseph A., legal representatives of	1307	5
Pierce, Charles H	1297	4
Pratt, Albert J	1385	5
Raymond, William G	1070	4
Redmond, Karoline C	1425	5
Stanley, William	1422	5
Wyoming, United States steamship, crew of	360	2
CAMINETTI, ANTHONY.		
From Committee on Agriculture.		
Forest reservations, California	2096	10
From Committee on Mines and Mining.		
Hydraulic mining, California	937	3

Subject.	Rept.	Vol.
CARUTH, ASHER G.		
From Committee on Interstate and Foreign Commerce.		
Kentucky and Indiana Bridge Company	1452	5
Dunkirk, N. Y	1845	7
CATCHINGS, THOMAS C.		
From Committee on Railways and Canals.		
Ship canal connecting Lake Erie with Ohio River	1416	5
From Committee on Rules.		
Census Office, investigation of	961	4
Civil-service investigation	1141	4
To investigate the Pension Bureau	257	1
CHIPMAN, J. LOGAN.		
From the Committee on Foreign Affairs.		
Anti-Jewish laws of Russia	1000	4
CLANCY, JOHN M.		
From Committee on War Claims.		
Allen, Lewis D	669 671	2 2
Atlantic Works	1965	10
Badeaux, Ulger V	1373	5
Bishop, Clarissa	1373	5
Boston, Mass	711	3
Briscoe, Jackson	670	2
Bristol, Louis H	1374	5
Buckmaster, William P., heirs of	1489	5
Danolds, Charles A	655	5
Desmarc, Alphonse	1373	2
Duties paid by the State of New York on arms imported in 1863	1034	5
Edwards, W. W	1373	4
Field, John A	654	2
Gallagher, Charles	712 713	3 3
Huson, W. H	401	2
Murphy, James, heirs of	1489	5
Quintard, George W	1049	4
Roach, John, assignees of	710 1048	3 4
Rowland, Thomas F	709 1964	3 10
Simerley, Mary E	672	2
Stack, Thomas	1490	5
Swart, Barnett T	656	2
Wood, Gerard, heirs of	404	2
CLARK, CLARENCE D.		
From Committee on Public Lands.		
Registers and receivers, fees of	989	4
Wyoming (abandoned military reservations)	1942	7
Entry of certain lands	1204	4
CLOVER, BENJAMIN H.		
From the Committee on Indian Affairs.		
Grubb & Robinson	1751	7
Citizen band of Pottawatomie Indians	851	3
Ayres, Eli	2113	10
COBB, JAMES E.		
From the Committee on the District of Columbia.		
Delivery and sale of ice on Sunday	1440	5
Fourth Street Methodist Church	1831	7
Protection of property	2001	10
From Committee on Elections.		
Noyes *vs.* Rockwell, views of minority	968	4

Subject.	Rept.	Vol.
COBB, SETH W.		
From Committee on War Claims.		
Anderson, Charles P	1397	5
Anderson, David B., deceased	1166	4
Anderson, William H	1673	7
Andes, Abraham	784	3
Blasser, Joseph	784	3
Botto, Luigi	1888	7
Bridger, James	1576	5
Buckey, Mary E	781	3
Buckholder, Martin, administrator of Abraham	784	3
Butler, Phillip T	785	3
Cahalan, Edward	576	2
Cheek, Mrs. Nelson	785	3
Clara Bell, steamer	1219	4
Cole, Mrs. S. M	783	3
Coleman, Sarah and Florence	1282	4
Connell, Michael	785	5
Crabill, Joseph D., estate of	784	3
Crenshaw, A. L. H	112	1
Crews, Hamilton	345	2
Cronk, Charles W	1568	5
Crosby, William	783	2
Deford, James, heirs of	1651	7
Dieters, John	1924	7
Dolman, Jacob	784	3
Downey, Amelia	784	3
Doyle, Johanna	785	3
Duvall, Tandy	784	3
Engelhardt, Margaretha	1935	7
Farnsworth, D. D. T	1670	7
Flick, Catharine	784	3
Gilbreath, Simeon	1283	4
Gummo, John W	1813	7
Haller, Jonathan	784	3
Hammon, Jacob, estate of	784	3
Hathaway, John R	721	3
Havens, Ezra S	114	1
Hernandez, Vidal	745	3
Herr, A. H., estate of	463	2
Honeycutt, Stephen M	850	3
Hoover, Benjamin, estate of	784	3
Hume, Isaac, estate of	784	3
Hundley, William T	782	3
Kennedy, Margaret	1671	7
Kibler, Josiah and Jeremiah	784	3
Kilbourn, Benjamin J	1954	7
Kulage, Joseph, heirs of	1033	4
Lam, James, estate of	783	3
La Rue, Maria D	783	3
Lefoldt, Julius	785	3
Legg, A. C., deceased	1274	4
Luchman, William	785	3
Lutz, Morris	784	3
Macon City, Mo., Catholic Church	1592	5
Marshall, Mo., the Christian Church	1065	4
Mecha, Catherine Barry	346	2
Milley, S. B., administrator of Mary E	784	3
Mixon, William	1650	7
Montgomery, Robert H	461	2
National banks, receivers of	922	3
Newell, Jesse C	1333	5

Subject.	Rept.	Vol.
COBB, SETH W.—Continued.		
From Committee on War Claims.		
Nutt, Julia A	1800	7
Oliver, Isham T	1496	5
Oliver, James M	1406	5
Orbison, Josiah B	1844	7
Orr, George A	1222	4
Owen, Isham T	1496	5
Peters, John L	613	2
Phillips, O. P	388	2
Platte County, Mo	1796	7
Platte City, Mo., Presbyterian Church and Masonic lodge	1031	4
Ponder, D. K	778	3
Ray, Vienna	784	3
Robertson, Anthony	784	3
St. Charles College	1181	4
Saulpaw, George W	1986	10
Savannah (Mo.) Christian Church	1030	4
Sheetz, Samuel, estate of	784	3
Smallwood, Howard F	781	3
Smith, David D	1864	7
Smith, James W	783	3
Smith, Sarah G	110	1
Snyder, James A., executor of Jacob	783	3
Soutter, William R., deceased	980	4
Speck, David	783	3
Sprinkle, S. D	1351	5
States, accounts of	220	1
Storer, Abraham	783	3
Stork, Conrad	785	3
Swartz, David	784	3
Taylor, George W., estate of	783	3
Taylor, James, heirs of	1487	5
Thompson, George W	784	3
Thompson, Lewis, executors of	997	4
Turley, William H	1486	5
Von Haake, Adolph	1567	5
Walls, Joseph L	780	3
Weaver, Tilghman, heirs of	1672	7
Welkes, Benjamin	815	3
White, J. Zachariah, legal representatives of	1011	4
Whitney, Franklin S	1802	7
Webster, I. B	113	1
Wilson, William F	462	2
Wolfe, William	682 1249	2 4
Woodson, Tarleton, heirs of	1632	5
Wyatt, James H	457	2
COCKRAN, W. BOURKE.		
From Committee on Ways and Means.		
Rate of duty on chocolate	1436	5
COGSWELL, WILLIAM.		
From Committee on the District of Columbia.		
Prevention of cruelty to children or animals	1215	4
COOMBS, WILLIAM J.		
From Committee on Interstate and Foreign Commerce.		
Revised Statutes, sections 2807 and 2881	1129	4
COOPER, GEORGE W.		
From Committee on Accounts.		
Messenger for Committee on Rivers and Harbors	473	
COWLES, WILLIAM H. H.		
From Committee on Mines and Mining.		
Executive department of mines and mining	1003	4

Subject.	Rept.	Vol.
COWLES, WILLIAM H. H.—Continued.		
From Committee on Mines and Mining.		
McGarrahan, William	245 1587	1 5
Mining débris in California	165	1
COX, ISAAC N.		
From Committee on Claims.		
Backman, Charles	1595	5
Beckley, R. D	1596	5
Dennis, James H	1601	5
Dunbar, Charles F	881	3
Ericsson, John, estate of	1225	4
Harrison, R. F	792	3
Hayes, Thomas G	1705	7
Howard, Leon	1596	5
Kelsey, James E., and others	674	2
Kentucky, Simpson County court of	812	3
Lee, Franklin	881	3
Milliken, Samuel, heirs of	676	2
Old Dominion Steamship Company	673 1902	2 7
Rogers, Charles E	1727	7
Saint Clair, Archie	1727	7
Trask, Mrs. E	978	4
Waller, John	1597	5
Western Beet Sugar Company, California	813	3
COX, NICHOLAS N.		
From Committee on Claims.		
Bryan, C. B. & Co	809	3
Catonsville (Md.) St. Timothy's Church	789	3
Cheatham, Adelicia	263 974	1 4
Dabney, Simmons & Co	414	2
Dennis, James H	1601	5
Hooper, James	872	3
Lincoln, Nebr	1690	7
Morgan, Thomas P., jr	1056	4
Whitfield, John W., estate of	1407	5
CRAIN, WILLIAM H.		
From Committee on Election of President and Vice-President and Representatives in Congress.		
Terms of President, etc., changing beginning and termination of	543	2
From Committee on Interstate and Foreign Commerce.		
Laredo, Tex., subport of entry	1014	4
Interstate Commerce Commission	1457	5
Brownsville, Tex., bridge across the Rio Grande at	1016	4
CROSBY, JOHN C.		
From Committee on Military Affairs.		
Beach, Warren C	1593	5
Boag, William R	1462	5
Bowen, George E	1936	7
Carrick, Robert	1125	4
Dunfee, Nicholas	874	3
Groat, Abram	498	2
Jack, John A	2022	10
Kane, James	875	3
Keefe, Michael, deceased	94	1
Kent, Henry O	1750	7
Lanahan, John D	1753	7
Lang, Nathaniel	450	2
Larkin, William J	1854	7

Subject.	Rept.	Vol.
CROSBY, JOHN C.—Continued.		
From Committee on Military Affairs.		
McKinney, George W	1755	7
Military telegraph lines	1005	4
Pyer, Charles G	1804	7
Shear, Lansing	1752	7
Thompson, James M	497	2
Unterleiter, Henry	1442	5
Wallace, David R., deceased	2021	10
Warren, John	496	2
Webb, William W	451	2
From Committee on the Post-Office and Post-Roads.		
Third and fourth class mail matter	1311	5
CULBERSON, DAVID B.		
From Committee on the Judiciary.		
Captured and abandoned property act, claims arising under	1377	5
Circuit courts of appeals	1258	4
Court of appeals, District of Columbia	1172	4
Courts in eastern district of Texas, time of holding	231	1
Court of private land claims	908	3
Cumberland, Md., terms of United States circuit and district courts	405	2
Exclusion of intoxicants from Indian Territory	1866	7
Jurisdiction of the district and circuit courts of the United States	271	1
Moneys collected under the direct-tax act to be paid to the State of West Virginia	1941	7
Reserve fund	1780	7
Tatnall, John R. F	6	1
CUMMINGS, AMOS J.		
From Committee on the Library.		
Bancroft, George, library of	1947	7
Bancroft, Hubert Howe, library of	1795	7
Beaufort, S. C., Beaufort Library Society	1294	4
Executive Mansion, oil paintings for	1293	4
Fort Greene, Brooklyn, monument at	169	1
Harrison, William Henry, monument to	1217	4
Historical manuscript relating to the District of Columbia	1216	4
Lafayette statue, dedication of	1644	7
Marquette, Pierre, statue of	990	4
Put-in-Bay, Ohio, monument at	1214	4
Saratoga monument	168	1
Smithsonian Institution, vacancies in the Board of R gents	4	1
Society of the Colonial Dames of America	256	1
Sutter, John A	1255	4
Thomas, George H., portrait of	1923	7
Townsend's library	1707	7
From Committee on Naval Affairs.		
Dry dock near Algiers, La	251	1
CURTIS, N. MARTIN.		
From Committee on Invalid Pensions.		
Execution of declarations in pension claims	559	2
Alexander, Adeline	527	2
Allen, Jane	101	1
Boodger, Adda L	460	2
Cheney, Wells	87	1
Cota, Harriet	1815	7
Danahay, Mary	1563	5
Davis, Cassie A	959	4
Finney, Abigail L	1349	5
Haskell, Lucy	415	2
Johnson, Emma	1303	5
Kennedy, Lydia M	769	3

Subject.	Rept.	Vol.
CURTIS, N. MARTIN—Continued.		
From Committee on Invalid Pensions.		
Kennock, Dora E	1883	7
Leonard, Lois P	1083	4
Niles, Harriet E	2005	10
Putman, Eunice	2098	10
Sherman, Jane A	1667	7
Van Vliet, Evalyn	1918	7
Woodbury, Harriet	1884	7
Taylor, Ida A	1621	5
CUTTING, JOHN S.		
From Committee on the Militia.		
Efficiency of the militia	754	3
DALZELL, JOHN.		
From Committee on Ways and Means.		
Cotton bagging and machinery	503	2
DANIELL, WARREN F.		
From Committee on Naval Affairs.		
Perkins, George H	1498 1899	5 7
DAVIS, JOHN.		
From Committee on Labor.		
Employment of convict labor on Government works	1312	5
DE ARMOND, DAVID A.		
From Committee on the Public Lands.		
Montana Mineral Railway Company	854	3
New Madrid location survey	1542	5
DICKERSON, WORTH W.		
From Committee on Accounts.		
Assistant doorkeeper	293	1
Closets and corridors in the terrace	1325	5
Messenger to Committee on Agriculture	2128	10
Rent of branch folding room	269	1
Uline, C. S	1324	5
From Committee on Banking and Currency.		
National-bank notes stolen from or lost by banks of issue	1019	4
DOCKERY, ALEXANDER M.		
From Committee on Appropriations.		
District of Columbia appropriation bill	495 1167	2 4
World's Fair expenditures	1454	6
DOLLIVER, JONATHAN P.		
From Committee on Naval Affairs.		
Jouett, James E	929	3
O'Brien, Oliver	2035	10
From Committee on War Claims.		
Abby Ellen, brig, owners of	70	1
Aldrich, E. J	284	1
Alexander, Thomas L., legal representatives of	1400	5
Balzer, Gustavus A	1787	7
Boutwell, D. W	433	2
Brott, George F	124	1
Buder, Edward A	607	2
Bushby, William	67	1
Caine, Catherine	276	1
Cameron, Emma S	550	2
Cameron, James and Emma S	888	3
Carson, Henry Polite	611	2
Chapman, Henley W	1401	5
Clapp, Sarah A	274	1
Collards, W. H., and others	1336	5
Dickson, D., and others	935	3
Dittlinger, Michael	429	2

Subject.	Rept.	Vol.
DOLLIVER, JONATHAN P.—Continued.		
From Committee on War Claims.		
Donnell, George O	115	1
Downs, Francis	1365	5
Evans, Samuel	1411	5
Expenses First Michigan Cavalry	436	2
Ferguson, George B	69	1
Galland, Washington	116	1
Hancock, William	1364	5
Handlin, William W	431	2
Harter, Thomas O	849	3
Hayford, Axel	69	1
Hazen, G. M., and others	934	3
Heberer, John	608	2
Henkel, Philip	1199	4
Holmes, Martha W	1412	5
Howland, Juanita	1367	5
Hughes, William C	1200	4
Johnson, Peter	1336	5
Kansas, claims of citizens	602	2
Kennedy, Margaret	95	1
Kirchner, George K	606	2
Kolbe, Carl F	96	1
Lee, John	1298	4
Livingston, Anne C	68	1
Lovell, Margaret Jane	1366	5
Lusk, Solomon	434	2
Lynch, John A	71	1
McCool, Wells C	466	2
Mahon, Eliza Jane	652	2
Martinsburg (W. Va.) Methodist Episcopal Church	213 465	1 2
Martinsburg (W. Va.) German Evangelical Church	212	1
Martinsburg (W. Va.) St. Joseph's Catholic Church	211 467	1 2
Matthews, William D	72	1
Mitchell, Sophia G	652	2
Mullin, Mary P	1335	5
Ockerson, Daniel J	283	1
Otis, Samuel, heirs of	69	1
Pedersen, Mathias	1201	4
Pitcher, William, heirs of	69	1
Priest, Mathew S	435	2
Rea, John A., estate of	1287	4
Russell, Gerald	1368	5
Ryan, M. B	1193	4
Salinas, Miguel	123	7
Schellhous, R. A	1182	4
Settlement of claims for arrears of pay and bounty	484	2
Shaffer, C. M	214 464	1 2
Smith, Grafton F., administrator of David	277	1
Taggart, C. C	1012	4
Urban, Anna M	1296	4
Washington, Lewis W., deceased	469	2
West Virginia, refund of money to	468	2
Wilcoxen, J. Stephen	475	2
Woods, Samuel, legal representatives of	1410	5
Worthington, Hugh, heir of	556	2
DUNGAN, IRVINE.		
From Committee on Labor.		
Bureau of Engraving and Printing, leave of absence to employés	408	2

Subject.	Rept.	Vol.
DUNPHY, EDWARD J.		
From Committee on the Post-Office and Post-Roads.		
Pay of letter-carriers	1725	7
DURBOROW, ALLEN C.		
From Committee on the Columbian Exposition.		
Dedication of buildings of the Columbian Exposition	2091	10
Foreign exhibitors, laborers of	2123	10
Four hundredth anniversary of the discovery of America	1660	7
National Highway Commission	2122	10
National Highway Commission	2045 2122	10 10
Proclamation relative to observance of four hundredth anniversary of the discovery of America	1527	5
ELLIOTT, WILLIAM.		
From Committee on Naval Affairs.		
Palmer, N. F., jr., & Co	1774	7
Pneumetic Dynamite Gun Company, New York	1680	7
ELLIS, WILLIAM T.		
From Committee on Revision of Laws.		
Certain volunteer and regular soldiers	1381	5
Leave of absence for members of the Grand Army of the Republic during the encampment	1382	5
Office of congressional correspondence and department business	479	2
Publication of the Revised Statutes	1955	7
Purchase of and contracts for supplies	1417	5
ENGLISH, THOMAS DUNN.		
From Committee on Indian Affairs.		
Protection from trespassers	1530	5
Shawnee and Delaware Indians, claims of	1554	5
Smith, Nimrod J	1827	7
White Mountain Apache Indian Reservation	1857	7
Yuma Pumping Irrigation Company	1856	7
ENLOE, BENJAMIN A.		
From Committee on Post-Office and Post-Roads.		
Ocean mail service	699	3
Salaries of railway postal clerks	624	2
From Committee on War Claims.		
Act July 4, 1864, claims under	38	1
Adle, H. D	1798	7
Alexander, William J	289	1
Anderson, James C., estate of	1280	4
Bank of Louisiana, creditors of	403	2
Barron, Mary	1017	4
Beard, I. B	327	2
Black, L. E	1280	4
Book agents of the Methodist Episcopal Church, South	20	1
Branch, Jesse L	1281	4
Brown, A. M	1281	4
Burke, Edward, administrator	334	2
Carter, Alfred B	328	2
Church and school buildings	11	1
Clark, Stephen D	241	1
Cleveland, Elizabeth J	1241	4
Crider, R. H	37	1
Cummings, Doyle & Co	39	1
Davis, Enoch	278	1
Deitrich, Emily	1279	4
Delille, Jean	1279	4
Dent, Warren R	332	2
Deucatte, Odon	83	1
Donato, Auguste, heirs of	329	2
Doyle & Co	39	1
Duncan, Andrew J	16	1
Easterly, Isaac	1281	4

Subject.	Rept.	Vol.
ENLOE, BENJAMIN A.—Continued.		
From Committee on War Claims.		
Farley, John A	1280	4
French, Henry S	82	1
Garrett, W. F	1281	4
Gibson, William F	238	1
Glassie, D. W. and Minna H	85	1
Grivot, Maurice, heirs of	1427	5
Hamm, John M	1277	4
Hickman, M. T	1279	4
Holt, John M	1281	4
Hoover, James C	1281	4
Hopper, William, estate of	17	1
Howard, Samuel	13	1
Humboldt Female College	1281	4
Jackson, Tenn., First Methodist Church	15	1
Johnson, Hiram, and others	19	1
Kaylor, Daniel	1281	4
Keegan, Mary E	330	2
Kelly, Peter, estate of	334	2
Kergon, Thomas	335	2
Lawhead, William, administrator of John	327	2
Lawrence, L. J	1280	4
Lazare, Jean Baptiste, estate of	329	2
Lee, A. S	281	1
Leiper, John	1281	4
Lemell, E	1279	4
Lillard, B., estate of	1278	4
Lovelace, Emma C	241	1
Lovell, Louisa Q., and others	12	1
McGloughlin, Virginia	329	2
McGuffee, G. V., sr	332	2
McLemore, Sarah L., administratrix John C	333	2
McMinville, Cumberland Female College	18	1
McNamara, Stephen	1275	4
Martin, John T., heir of Joseph	1279	4
Meullion, Francis	329	2
Monahan, Mary E	327	2
Montgomery, Hugh, deceased	1279	4
Montgomery, Olivia F	332	2
Moody, B. F., & Co	279	2
Moore, Stativa, estate of	330	2
Moore, Stephen, administrator	17	1
Murphy, J. J	330	2
Nash, Joseph C	85	1
Neal, W. H., estate of	1280	4
Newell, Jane, estate of	1281	4
New Orleans, La., Odd Fellows' Hall Association	402	2
Union National Bank	86	1
Noland, William H	1280	4
Overton Hotel Company	331	2
Officers and crews of the Navy, moiety claims of	242	1
Odle, H. D	1798	7
Oakley, E. C., administrator	1280	4
Payne, James & Co	75	1
Powel, Sarah A	327	2
Randolph, J. P	609	2
Rather, James	1281	4
Restle, Leger	330	2
Roach, Benjamin, estate of	332	2
Sanders, John C., administrator	1278	4
Scott, Mrs. W. A	1280	4
Shirley, Mrs. A	84	1
	1657	7

Subject.	Rept.	Vol.
ENLOE, BENJAMIN A.—Continued.		
From Committee on War Claims.		
Singleton, H. C., estate of	1281	4
Smith, Alfred	240	1
Spaugh, Robert	265	1
Taylor, Jane L	74	1
Timberlake, S. R	1280	4
Tucker, T. M., estate of	327	2
Underwood, John C	1276	4
Vanguat, Louis	329	2
Walker, T. J	1280	4
Wasson, Richard F., legal representatives of	1278	4
Wesson, Randolph	81	1
Wolfson, Caroline L., widow of Jacob A	1279	4
Wilson, William D., legal representatives of	1656	7
Wyrick, James R	280	1
ENOCHS, WILLIAM H.		
From Committee on Public Buildings and Grounds.		
Public buildings, to erect at—		
Findlay, Ohio	1819	7
Gallipolis, Ohio	1114	4
Keokuk, Iowa, expense of paving streets around public buildings	2000	10
Reno, Nev	2127	10
FELLOWS, JOHN R.		
From Committee on the District of Columbia.		
Baker, Henry M	1653	7
Protestant Episcopal Cathedral foundation	1900	7
Sanborn, John Jay	1653	7
Settlement of outstanding claims	2129	10
FITHIAN, GEORGE W.		
From the Committee on the Eleventh Census.		
Investigation of the Census Bureau	1933	7
From Committee on Merchant Marine and Fisheries.		
American registry of ships built in foreign countries	966	4
FLICK, JAMES P.		
From Committee on Invalid Pensions.		
Arnold, Mrs. M. E	1472	5
Boone, Esther J	1239	4
Chapman, Samuel H	2006	10
De Russy, Helen A	2101	10
Dunham, John S	1157	4
Ford, John C	637	2
Griffith, Martha J	1238	4
Mohan, Elizabeth	641	2
Murray, B. Jennie	775	3
O'Brien, Michael	1153	4
Parker, Mary F	1304	5
Sharman, Marion Kern	954	4
Stanley, William Oscar	1741	7
Stockwell, John	953	4
Turner, Granville R	1916	7
Welty, Joseph H	2102	10
Willson, Elizabeth R	528	2
FORNEY, WILLIAM H.		
From Committee on Appropriations.		
Legislative, executive and judicial appropriation bill	1526	5
FOWLER, SAMUEL.		
From Committee on Merchant Marine and Fisheries.		
American shipbuilding	927 1634	3 5
Damages to planted oysters and oyster beds	2053	10
Foxhall, steamer, American register for	1327	5

Subject.	Rept.	Vol.
FOWLER, SAMUEL—Continued.		
From Committee on Merchant Marine and Fisheries.		
Protection of fish in the Potomac River	1953	7
Seabird, barge, American register for	1330	5
GEARY, THOMAS J.		
From Committee on Foreign Affairs.		
Chinese, exclusion of	407	2
La Abra Silver Mining Company	1143	4
From Committee on Interstate and Foreign Commerce.		
St. Lawrence River, bridge across	1635	5
Weil award	1142	4
From Committee on Interstate and Foreign Commerce.		
Bridge across Brazos River, Texas, Velesco Terminal Railway Company	615	2
Certain rivers, Alabama	1319	5
Columbia River	1038	4
Hudson River	909	3
Bridge across Illinois River	1175	4
Mississippi River at (or near) Davenport, Iowa	619	2
Mississippi River at Quincy	912	3
Missouri River at De Witt, Mo	689	3
Missouri River at St. Charles, Mo	910	3
Missouri River at Yankton, S. Dak	1176	4
Missouri River in South Dakota	911	3
Morris & Cummings Ship Canal, Arkansas County, Tex	1320	5
Osage River	618	2
Tennessee River in Alabama	1174	4
Tennessee River by St. Louis and Birmingham Railroad Company at Clifton	620	2
Tennesssee River at or near Knoxville, Tenn	1037	4
Continental Bridge Company	617	2
Dams across the Kansas River	1438	5
License to use a pier at the mouth of the Chicago River	616	2
Oregon and Washington Bridge Company	816	3
San Francisco, Cal, revenue cutter for service at	384	2
GEISSENHAINER, JACOB A.		
From Committee on Naval Affairs.		
Baltimore (U. S. ship) medals for the officers and crew of	1001	4
Revenue-Cutter Service, transfer of	1677	7
Sale of navy-yard lands, Brooklyn	1482	5
GOODNIGHT, ISAAC H.		
From Committee on the Judiciary.		
Court of Claims	1540	5
Judicial district of North Dakota	983	4
McCormick, A. P., charges against	739	3
Metropolitan Railroad Company, District of Columbia	1847	7
South Dakota, term of United States court at	1846	7
Sugar trust	1286	4
GROUT, W. W.		
From Special Committee to Investigate Charges Against the Conduct of Members of the House.		
Report of investigation, minority	2132	10
HALL, OSEE MATSON.		
From Committee on Patents.		
Trade-marks and labels	1860	7
HALLOWELL, EDWIN.		
From Committee on the District of Columbia.		
License tax, produce dealers'	1254	4
HARE, DARIUS D.		
From Committee on the Public Lands.		
Dealy, David	1950	7
Gottschalk, C. V	1681	7
Younkin, W. Cary	1950	7

Subject.	Rept.	Vol.
HARRIES, WILLIAM H.		
From Committee on Invalid Pensions.		
Case, Maud	1532	5
Colvill, William	635	2
Fortier, Joseph	1806	7
Gray, Jennie	2067	10
Hall, John S	2103	10
Hamilton, Sophia J	1154	4
Heinze, Herman	1625	5
Leahey, Michael	636	2
McDermott, Martin	1561	5
Melvin, Fordyce R	2104	10
Newkirk, Isabella W	2106	10
Nonresidents, pensions to	1509	5
Northrup, Anson	2066	10
Palmatier, Eliza T	1879	7
Philbrook, Mrs. C. E	1448	5
Ries, Lillie	1084	4
Russell, Sarah A	2105	10
Smith, Stephen D	1086	4
Thornhill, French W	1562	5
Tuttle, Mary	2008	10
Ward, Jane A	298	1
HARVEY, DAVID A.		
From Committee on Indian Affairs.		
Allotment of lands among certain Indian tribes	2040	10
Cheyenne and Arapaho Indians, lands acquired from	478	2
HATCH, WILLIAM H.		
From Committee on Agriculture.		
Adulteration of food and drugs	914	3
Agricultural appropriation bill	1586	5
Commerce between the several States	913	3
Dealing in fictitious farm products	969	4
Deficiency appropriation	519	2
Effects of the tariff on agriculture	191 2114	1 10
Wheat, classification and grading of	1232	4
HAUGEN, NILS P.		
From the Committee on Elections.		
Noyes *vs.* Rockwell	968	4
HAYES, WALTER I.		
From Committee on the Post-Office and Post-Roads.		
Semiweekly and triweekly publications, postage on	1951	7
HEARD, JOHN T.		
From Committee on the District of Columbia.		
Anacostia and Potomac River Railroad Company	513	2
Eckington and Soldiers' Home Railway Company	190	1
Extension of North Capitol street to the Soldiers' Home	1421	5
Extension of Y street	1024	4
Glen Echo Railroad Company	1151	4
Houses in certain alleys, preventing building of	324	2
Maryland and Washington Railway Company	425	2
One-horse cars	1152	4
Rock Creek Railroad Company	759	3
Street railroad lines	1169	4
Street railroads, motive power of	803	3
Washington and Georgetown Railroad Company	1039	4
Washington and Great Falls Electric Railway Company	1627	5
From Committee on Patents.		
Protection of innocent users of patented articles	1826	7
Registration of trade-marks	410	2

Subject.	Rept.	Vol.
HEMPHILL, JOHN J.		
From Committee on the District of Columbia.		
Academy and Gallery of Arts	1895	7
Building and other associations, deposits in	758	3
Confirming title to certain lands	1004	4
Conveyances of real estate	867	3
Deadly weapons	1148	4
False swearing before trial boards of the police force and fire department	628	2
Foreign corporations	1147	4
Fraudulent transactions on the part of commission merchants	631	2
Fraud upon the water revenues	868	3
General incorporation law	7	1
Holders of drawback certificates	409	2
Inspector of plumbing	869	3
Institutions of learning	864	3
Keyser, Esther W	603	2
Land titles	629	2
Livery-stable keepers	871	3
Memorial association	1149	4
National Safe Deposit Company	175	1
National Union Insurance Company	760	3
Opening of alleys	865	3
Pay for condemned alley	630	2
Permanent system of highways	366	3
Platform in the alley in square 454	1896	7
Power to grant pardons, etc	174	1
Practice of dentistry	870	3
Unlawful appropriations of the use of property	632	2
HENDERSON, JOHN S.		
From Committee on Pensions.		
Barrow, David C	492	2
Boatright, Eliza M	490	2
Gatlin, Mary	491	2
Gardener, Frances P	1055	4
Howell, William C	1717	7
Waggoner, Sarah J	1639	5
From Committee on the Post-Office and Post-Roads.		
First and second class post-masters, expenses of recent convention	1006	4
Post-office appropriation bill	1135	4
United States mail, exchanges through	1314	5
HERBERT, HILARY A.		
From Committee on Naval Affairs.		
Appropriations for the Navy	621	2
Assistant to chief of Bureau of Navigation	1989	10
Enlisted men in Navy	1504	5
Naval appropriation bill	1453	5
Pensacola Terminal Company	1503	5
HOLMAN, WILLIAM S.		
From Committee on Appropriations.		
Sundry civil appropriation bill	407	2
Temporary provision for expenditures of the Government	847	3
HOOKER, CHARLES E.	2119	10
From Committee on Foreign Affairs.		
Chinese exclusion, minority	407	2
International arbitration congress	1987	10
Matchett, William B	1859	7
HOOKER, WARREN B.		
From Committee on Indian Affairs.		
Indian beneficiaries under treaty concluded at Buffalo Creek	1858	7

Subject.	Rept.	Vol.
HOPKINS, ALBERT C.		
From Committee on Indian Affairs.		
Travis, M. M	348	2
HOUK, GEORGE W.		
From Committee on the Columbian Exposition.		
Loan of certain articles	1511	5
HOUK, JOHN C.		
From Committee on War Claims.		
Barnes, Benjamin S	1523	5
Bates, John A	972	4
Battelle & Evans	290	1
Bazell, James B	312	1
Bethel Springs, Texas—		
Trustees of Presbyterian Church of	311	1
Bliss, Francis A	239	1
Bradley, Horace L	320	1
Brown, John T	971	4
Caldwell, C. D	1467	5
Carmack, Joseph W	228	1
Clift, William	723	3
Denny, George, sr	522	2
Farnighy, Louis O	1499	5
Forgey, James	1386	5
Giddings, Napoleon B	227	1
Gillett, Theodore J	1386	5
Green, Edman	1538	5
Hackney, B. R	321	1
Harris, Thomas D., heirs of	103	1
Hartman, Jesse P	315	1
Henry, William M	319	1
Higgins, Thomas L	275	1
Hoffman, R. H	322	1
Jocknick, Gustavus F	612	2
Johnson, A. S., administrator of Thomas	318	1
Jones, John H., heirs of	103	1
Jones, John H., legal representatives of	722	3
Kouns, John, surviving partner of George L	1386	5
Livers, Fanny S	1500	5
McLaughlin, Ammon	1386	5
McLaughlin, Nelson	317	1
Magill, Lydia A	323	2
Marklein, Charles	470	2
Neet, John S., jr	225	1
O'Brien, William D	314	1
Patton, S. K. H	313	1
Phillips, James B	1466	5
Quarles, W. A	1009	4
Saunders, Edwin E., estate of	1386	5
Scoville, W. T	1386	5
Shadel, Henry A	1386	5
Smith, Alfred	240	2
Smith, Dudley D., heirs of	1386	5
Taylor, William E., and others	936	3
Turner, George	316	1
Walker, Dabney, widow of	887	3
Wilson, William D	102	1
Worcester, Alfred J	226	1
Youngblood, Sarah E	1338	5
HULL, JOHN A. T.		
From Committee on Military Affairs.		
Barr, George W	574	2
Blake, C. M	267	1

Subject.	Rept.	Vol.
HULL, JOHN A. T.—Continued.		
From Committee on Military Affairs.		
Blood, Charles S	646	2
Brown, William H	540	2
Carpenter, Thomas H	266	1
	510	2
Cordray, David P	791	3
Crangle, Henry	1937	7
Dana, Napoleon J. T	454	2
	1441	5
Davis, F. W	645	2
Fletcher, William	1244	4
Gillies, Charles F	1329	5
Hadley, E. D	1247	4
Holmes, Prentice	960	4
Johnson, Gilman L	537	2
Knowlton, William C	1308	5
Lofland, H	1246	4
Marks, George A	2036	10
Skinner, John H	538	2
Spencer, William C	299	1
	1665	7
Wedgwood, William W	121	1
Wells, Eugene	856	3
Welsh, William	354	2
Welty, Charles W. E	539	2
Werner, Charles J	1938	7
JOHNSON, TOM L.		
From Committee on the District of Columbia.		
Assessment of taxes	1679	7
Duplicate tax ledgers	516	2
Fine for making assessments outside of Washington and Georgetown	518	2
Tax sales and taxes	517	2
From Committee to Investigate Tax Assessments in the District of Columbia.		
Assessment of taxes	1469	5
JOLLEY, JOHN L.		
From Committee on Invalid Pensions.		
Amendment to pension laws	1292	4
Kimball, Jonathan	548	2
Matlock, Thomas J	2056	10
Quigg, Caroline E	184	1
Risk, Abasha	1887	7
Root, Leroy	2100	10
Telford, Mary Jewett	428	2
Vaughn, Jennie	183	1
JONES, WILLIAM A.		
From Committee on Pensions.		
Sisson, Henry	952	4
JOSEPH, ANTONIO.		
From Committee on Military Affairs.		
Ceran St. Vrain's Company New Mexico Mounted Volunteers	1435	5
From Committee on the Territories.		
New Mexico, admission of	736	3
New Mexico capitol building	1575	5
KEM, OMER M.		
From Committee on Indian Affairs.		
Certain lands of the Confederated Oto and Missouri tribes of Indians in Nebraska and Kansas	1793	7
Southern Ute Indians, Colorado	1205	4

Subject.	Rept.	Vol.
KENDALL, JOSEPH M.		
From Committee on Claims.		
Sawtelle, Charles G	1606	5
Taylor, A. K., administrator of George W	1748	7
Woodson, R. B	1696	7
KRIBBS, GEORGE F.		
From Committee on Invalid Pensions.		
Barrett, Walter	1622	5
Clark, Charity W	638	2
Deafness, pensions in certain cases	1920	7
Hagan, Sarah A	958	4
Hatch, Ellen DeWitt	2009	10
Holstein, Anna M	1559	5
Hutchinson, Mary Isabella	456	2
Hyatt, Margaret	1560	5
Kelley, Sarah A	2099	10
McCammon, James	73	1
Moorhead, Mary A	1306	5
Read, Edith S	1558 1886	5 7
Smith, Eliza	546	2
Snavely, Charlotte	547	2
Starr, Eliza K	1242	4
LANE, EDWARD.		
From Committee on the Militia.		
Additional artillery for National Guard	1059	4
Nebraska, ordnance stores and supplies for	2120	10
LANHAM, SAMUEL W. T.		
From Committee on Irrigation of Arid Lands in the United States.		
Arid lands of the United States	569	2
LAPHAM, OSCAR.		
From Committee on Military Affairs.		
Loan of flags, etc., during Grand Army encampment	499	2
From Committee on Patents.		
Winans, William L	1605	5
LAYTON, FERNANDO C.		
From Committee on the Judiciary.		
Detroit, Mich., releasing claim and interest to a lot in	163	1
District of Montana, southern division of	1816	7
Jurisdiction of Court of Claims in certain cases, etc	366	2
LESTER, RUFUS E.		
From Committee on Rivers and Harbors.		
Improvement of outer bar, Brunswick, Ga	1869	7
Martello tower, Tybee Island, Ga	916	3
LEWIS, CLARKE.		
From Committee on Public Buildings and Grounds.		
Public buildings, to be erected at—		
Abingdon, Va	1141	4
Bedford City, Va	1118	4
Brunswick, Ga	1105	4
Finlay, Ohio	1819	7
Louisville, Ky., sale of public building	1106	4
Mount Sterling, Ky	1822	7
Natchez, Miss	1168	4
Newport News, Va	1103	4
St. Paul, Minn	1252	4
LIND, JOHN.		
From the Committee on the Eleventh Census.		
Chamberlain, Charles B	686	2
Wheaton, William R	686	2
From Committee on Interstate and Foreign Commerce.		
Bridge—railroad and wagon—across the Mississippi River at South St Paul, Minn	81	

Subject.	Rept.	Vol.
LIND, JOHN—Continued.		
From Committee on Interstate and Foreign Commerce.		
Coasting trade on the Great Lakes	688	3
Contract of common carriers	1988	10
Dutiable goods, immediate transportation of, Duluth	1974	10
Waterway from head of Lake Superior to the sea	185	1
From the Select Committee to Investigate the Methods and Management and Practices of the Bureau of Pensions.		
Report of investigation, minority	1868	8 9
LITTLE, JOSEPH J.		
From Committee on the Columbian Exposition.		
Columbian Exposition, views of the minority	1660	7
Exhibition of certain books, papers, etc., from the Library of Congress	570	2
Invitations to presidents of American Republics and governors of American colonies to attend	1515	5
King and Queen of Spain, invitation to	1514	5
LODGE, HENRY CABOT.		
From Committee on Naval Affairs.		
Mackintosh, James C	1535	5
Morrison, James	1535	5
Naval Observatory	926	3
LONG, JOHN B.		
From Committee on Agriculture.		
Silk culture in the United States	1360	5
LOUD, EUGENE F.		
From Committee on Claims.		
Ames & Detrick	906	3
Billings, J. M	1197	4
Bryan, William J	1198	4
Burrows, Frank J	677	2
Chamberlain, Charles H	686	2
Grace, James	1194	4
Kramer, Matilda S., and Mary W	1163	4
Mathews, F	1195	4
Parker, D. S	1195	4
Plant, George H	511	2
Potomac Steamboat Company	512	2
Ward, W. H	1196 1332	4 5
Wheaton, William R	686	2
From Committee on Post-Offices and Post-Roads.		
Ocean mail service, minority	699	3
LYNCH, THOMAS.		
From Committee on Indian Affairs.		
Colville Indian Reservation	1525	5
Jones, Huff	1659	7
Marinetti and Western Railroad Company	347 692	2 3
Miami Indians, reimbursement of	1380	5
Mission Indian commission	1633	5
Right of way through the Umatilla Reservation	1963	10
Sale of timber on certain lands in Wisconsin	1077	4
Stockbridge and Munsee Indians	558	2
McALEER, WILLIAM.		
From Committee on Naval Affairs.		
Badger, Oscar C	1483	5
Broome, John L	1529 1855	5 7
Engineer Corps	1491	5
Hamersly, Lewis R	1334	5

Subject.	Rept.	Vol.
McALEER, WILLIAM—Continued.		
From Committee on Naval Affairs.		
Reduction in the Engineer Corps of the Navy	440	2
Sartori, Louis C	2092	10
McCLELLAN, CHARLES A. O.		
From Committee on Expenditures in the Navy Department.		
Leaves of absence to certain per diem employés of the Government	1036	4
McCREARY, JAMES B.		
From Committee on Foreign Affairs.		
Pan-American Medical Congress	1791	7
Russian Hebrews	1177	4
Swift, Mary A	1061	4
McDONALD, EDWARD F.		
From Committee on Military Affairs.		
O'Reilly, Thomas P	643	2
McGANN, LAWRENCE E.		
From Committee on Claims.		
McMurdie, Maria	2038	10
Sweet, Chester B	787	3
McKAIG, WILLIAM M.		
From Committee on Printing.		
Amend and supplement the election laws of the United States	1865	7
Bankrupt bill	2075	10
Bureau of American Republics, to print bulletin of	2146	10
Climatic features of the two Dakotas	2147	10
Coast and Geodetic Survey, report of superintendent of	1342	5
Commissioner of Education, to print report for 1889-'90	2136	10
Commissioner of Labor, seventh annual report of	2137	10
Fish and Fisheries, report of Commissioner of	1344	5
European commerce, to print report on	2134	10
European immigration, to print report on	2133	10
Immigration and Naturalization, to print report of House Committee on	2139	10
Merchant vessels of United States, to print list of	2140	10
Lee, W. H. F., eulogies upon, delivered in Congress	426	2
Smithsonian Institution and National Museum, to print report for year ending June 30, 1891	2141	10
Special committee on investigation of the Pension Office, report of	2145	
Spinola, Francis B. (eulogies on)	2095	10
Statistical abstract for year 1891	2094	10
Subcommittee on Trusts, to print report on	2138	10
Survey made pursuant to act of March 2, 1891	2135	10
Wilson, E. K., eulogies on	2093	10
Yorktown, Va., monument at	1343	5
From Committee on Public Buildings and Grounds.		
Cumberland, Md	1096	4
Henderson, Ky	1976	10
Logansport, Ind	1823	7
McKENNA, JOSEPH E.		
From Committee on Indian Affairs.		
Klamath River reservation	161	1
Mission Indian Commission	691	3
McKINNEY, LUTHER F.		
From Committee on Invalid Pensions.		
Avery, Frank L	1917	7
Bentley, Watson S	2061	10
Brennan, Bridget	1875	7
Chamberlain, John C	1517	5
Christien, Margaret	301	1
Corser, David S	1243	4
Deafness, increased rate of pension for certain cases	1263	4

Subject.	Rept.	Vol.
McKINNEY, LUTHER F.—Continued.		
From Committee on Invalid Pensions.		
Emerson, Earnest C	1444	5
Fays, Eliza	420	2
Geer, Martha A	1737	7
Hamilton, Mrs. C. R. ("Sister Angela")	1391	5
Hastings, Rosanna	1736	7
Ingraham, Ira	1624	5
Intermediate rate of pension	1264	4
between $30 and $72	515	2
Maguire, Ellen	63	1
Martin, Mary	2058	10
Mitchell, Kate P	64	1
Nason, Ralph Waldo	1534	5
Osgood, James H	979	4
Roberts, Julia S	2060	10
Salisbury, Susan T	1155	4
Seaver, Nettie N	2057	10
Smith, Stephen D	1086	4
Vosburg, Harriet T	2059	10
Willey, James H	640	2
Wise, Mary A	1564	5
McMILLIN, BENTON.		
From Committee on Rules.		
Investigation of Keystone, Spring Garden, and Maverick National Banks	230	1
From Committee on Ways and Means.		
Amendment to section 3355, Revised Statutes	2046	10
System of subtreasuries	2143	10
Wool duties	501	2
McREA, THOMAS C.		
From Committee on Public Lands.		
Arkansas, bonds of, held by the United States	693	3
Eastport, Me., abandoned military reservations	1230	4
Forfeiture of certain lands	1426	5
Hot Springs, Ark	988	4
lot 1, block 72	1002	4
trustees of Trinity Church	893	3
Keady, William P	1842	7
North and South Dakota, settlers upon certain lands in	1870	7
Protection of settlers	1485	5
Purchasers of certain timber and stone lands	1943	7
Sale of stone and timber lands, etc	482	2
Settlers on	483	2
Swamp-land grants	296	1
	1571	5
Yellowstone National Park	1956	10
MALLORY, STEPHEN R.		
From Committee on Interstate and Foreign Commerce.		
Dutiable goods, immediate transportation of	1218	4
	1359	5
Punta Gorda, Fla., subport of entry at	1210	4
Tampa Bay, Fla., aids to navigation	572	2
MANSUR, CHARLES H.		
From Committee on Claims.		
Abbott, D. P	61	1
Armstrong, Edward S	706	3
Barnett, Martin A., widow and heirs of	719	3
Clarkson, James	2039	10
Cogswell & Co	2013	10
De Leon, Agnes and Maria	2015	10
French spoliation claims	1901	7

Subject.	Rept.	Vo
MANSUR, CHARLES H.—Continued.		
From Committee on Claims.		
Griffith, Maurice G	834	
Gumberts, Henry, sr	1700	
Ham, James S., heirs of	701 883	
Holmes, & Leathers	1701	
Jones, Aquilla	14	
Keeves, A. S	61	
Kennedy, John W	838	
Kinnerly, Charles M	702	
Logan, John S., assignee	60	
McCabe, James	1699	
McDougall, George, legal representatives of	839	
Marcy, Daniel	1702	
Monroe, Thomas C., estate of	833	
Moss, William, estate of	703	
Murray, George W	718	
Myres, B. F	835	
Newton, Mass., First National Bank	2014	
Nickles, John	705	
Price, Rodman M	1693	
Root, Elihu	700	
Russell (brig)	1922	
Schillinger patents, relief of owners of	24	
Selma and Meridian Railroad Company	23	
Shipley, E. R	25	
Sibley, Henry H. and Charlotte K., heirs of	21	
Skrainka Construction Company	58	
Smith, T. E	61	
St. Louis and Mississippi Transportation Company	704	
Stolle, H. C., and others	837	
Tradewell, F. A	707	
Vose, John W., heirs of	884	
Western Paving and Supply Company	22	
Winn, D. M	59	
Witherby & Gaffney	1703	
Wood, William P	836	
Young, William F	62	
From Committee on Territories.		
Indian Territory, mines and mining in	1[illegible]2	
Oklahoma, district courts of	944	
MARTIN, AUGUSTUS N.		
From Committee on Invalid Pensions.		
Allen, Katie	1565	
Amendment to pension law	500	
Badger, Louis	1616	
Beerbower, Martha A	774	
Bodley, Julia	639	
Bollman, Lydia	1874	
Brackett, Margaret	1735	
Bradford, Delzell R	1872	
Brewer, William H	1237	
Brinneman, Cynthia	533	
Campbell, Samuel M	1516	
Carpenter, Elizabeth	773	
Cassell, Ida	955	
Cooper, Thomas	956	
Fleenor, John T	1909	
Flynn, Margaret A	2081	
Greene, Annie M	2032	
Hazzard, George W	1566	
Incapacitated soldiers and sailors, pension to	1260	

Subject.	Rept.	Vol.
MARTIN, AUGUSTUS N.—Continued.		
From Committee on Invalid Pensions.		
Johnson, Wells	1912	7
Kelly, Mary Clare	1318	5
Larnard, Helen	2116	10
Law, Mary E	1615	5
McChesney, Mary D	2071	10
Monroe, Andrew J	2080	10
Neal, William M	2115	10
New, Adelia	1445	5
O'Neal, Jacob	1873	7
Pacheco, Juan	1159	4
Pensioners in soldiers' homes	1840	7
Reese, Charles	2070	10
Rice, Margaret M	1158	4
Roberts, John M	1911	7
Shea, Honora	1928 2066	7 10
Smith, William G	2072	10
Smitherman, Edward	1807	7
Sutherland, Obe	449	2
Tarkington, William C	1614	5
Taylor, William H	2010	10
Test, Bertha	957	4
Torrence, Anna	1617	5
Treux, David L	416	2
Union soldiers and sailors, widows of	2068	10
Venard, Mary	1385	5
Wade, Jennie Y	448	2
Walters, Joel A	1908	7
Wells, ——	1912	7
White, Mary E	1566	5
Williams, Florence Esther	1910	7
MEREDITH, ELISHA E.		
From Committee on the District of Columbia.		
Care of dependent children	945	4
Norfolk and Western Railroad Company	1628	5
Payment of a certificate of indebtedness	633	2
MEYER, ADOLPH.		
From Committee on Naval Affairs.		
Promotions in the Marine Corps	1502	5
Retired list for enlisted men	2051	10
MILLIKEN, SETH L.		
From Committee on Public Buildings and Grounds.		
Gardiner, Maine	1100	4
Mammoth Hot Springs, post-office building at	1570	5
MILLS, ROGER Q.		
From Committee on Interstate and Foreign Commerce.		
Burlington, Iowa, bridge at	234	1
MITCHELL, JOHN L.		
From Committee on Claims.		
Frémont, Jessie Benton	1903	7
From Committee on Military Affairs.		
Champlain and St. Lawrence Railroad Company	477	2
East Baton Rouge, La., St. Joseph's Church	1745	7
Fort McClary Military Reservation	1439	5
Hotel on Government reservation, Fort Monroe, Va	1746	7
Ilnaco Railway and Navigation Company	1295	4
Land for cemetery, Sidney, Nebr	1261	4
Lease of certain public property	1817	7
Master of the sword, U. S. Military Academy	1414	5
National home for disabled volunteer soldiers	250	1

Subject.	Rept.	Vol.
MITCHELL, JOHN L.—Continued.		
From Committee on Military Affairs.		
New Mexico or Southern Colorado, national sanitarium in	1463	5
Oklahoma City, military reservation at	1020	4
Road from Little Rock, Ark., to the national cemetery adjacent	1021	4
Santa Fe, Prescott and Phœnix Railway Company	1591	5
MONTGOMERY, ALEXANDER B.		
From Committee on Ways and Means.		
Dutiable merchandise, transportation of, Sandusky, Ohio	173	1
MOSES, CHARLES L.		
From Committee on Accounts.		
Assistant journal clerk	1223	4
From Committee on Pensions.		
Indian wars of 1832 to 1842, inclusive, survivors of	818	3
Smith, Meridy	822	3
MUTCHLER, WILLIAM.		
From Committee on Appropriations.		
Pension appropriation bill	525	2
NEWBERRY, WALTER C.		
From Committee on Military Affairs.		
Fisher, Neil	708	3
Fort Wayne, Mich., military post	1642	7
Gettysburg Battlefield Memorial Association	1643	7
McNeil, Quincy	644	2
From Committee on Public Buildings and Grounds.		
Public buildings, to erect, at—		
Ann Arbor, Mich	1110	4
Boise, Idaho	1111	4
Cheyenne, Wyo	1119	4
Chicago, Ill	567	2
Post-office	566	2
United States Marine Hospital	855	3
Decatur, Ill	1528	5
East St. Louis, Ill	1946	7
Elgin, Ill	1505	5
Fond Du Lac, Wis	844	3
Helena, Mont	1112	4
Joliet, Ill	1107	4
Oakland, Cal	843	3
Salem, Oregon	845	3
Spokane, Wash	1109	4
NORTON, RICHARD H.		
From Committee on Pensions.		
Ellis, Agnes P	897	3
Hamilton, Aaron V	493	2
Luke, Elizabeth S	1718	7
Meredith, Frederick	494	2
Tradewell, F. A	707	3
OATES, WILLIAM C.		
From Committee on the Judiciary.		
Blackmailing	9	1
Boarman, Aleck	1536	5
Disqualifying justices, judges, etc., in certain cases	406	2
District court, eastern district of South Carolina	1788	7
Homestead, Pa., to investigate labor troubles	1803	7
partial report on	2142	10
Judgments and decrees of the highest courts of the Cherokee, Creek, Seminole, Choctaw, and Chickasaw tribes of Indians, respectively	1437	5
Judgment liens	170	1
Marriage and divorce	1290	4
	1291	4

Subject.	Rept.	Vol.
OATES, WILLIAM C.—Continued.		
From Committee on the Judiciary.		
Naturalization laws, amendment of	697	3
Pinkerton agency, investigation of	1376	5
Revised Statutes, sections 3480 and 4716	614	2
Springfield, Mass., sale of certain lands	1789	7
Uniform system of bankruptcy	1674	7
O'FERRALL, CHARLES T.		
From Committee on Elections.		
Noyes *vs.* Rockwell	968	4
From Committee on the Library.		
Greene, Nathanael, monument to	472	2
Jefferson, Thomas, manuscript papers and correspondence of	1231	4
Morgan, Daniel, monument to	471	2
O'NEILL, JOHN J.		
From Committee on Expenditures in the Treasury Department.		
Persons employed on public works, protection of	2124	10
From Committee on Interstate and Foreign Commerce.		
Bridge across the Alabama River by Montgomery, Tuscaloosa and Memphis Railroad	1683	7
Black River, Ark	1684	7
Cahaba River in Tuscaloosa County, Ala	1686	7
Cane River, La., by the Natchitoches Cane River Bridge Company	1850	7
Columbia River, Wash	1852	7
Kootenai River at Fry, Idaho	1940	7
Missouri River at or near Omaha, Nebr	1688	7
Mobile River, by Chicago, Mobile and Gulf Ports Railroad Company	1685	7
Ohio River between Cincinnati, Ohio, and Covington, Ky	2079	10
Red River, La., by Rapides Bridge Company	1851	7
Red River of the North	1687	7
Tallapoosa and Coosa rivers	1939	7
Tennessee River at or near Deposit, Ala	1663	7
Warrior River	1682	7
Gay Head, Mass., life-saving station	1043	4
Interchangeable five thousand mile tickets	1694	7
Interstate Commerce and labor laws	1960	11
Life-Saving Service	508	2
Life-saving station at or near East Marion, Long Island, N. Y	1689	7
Railway employés and the traveling public, safety of	1678	7
Telephone line on the coast of Virginia	1044	4
OTIS, JOHN G.		
From Committee on Private Land Claims.		
Alleged conspiracy in connection with the Maxwell land grant	1824	7
New Mexico and Colorado, land titles in	1253	4
OUTHWAITE, JOSEPH H.		
From Committee on Military Affairs.		
Administration of justice in Army	817	3
Amendment to seventeenth article of war	1356	5
American Revolution, military records of	1357	5
Appropriations for the Army	549	2
Board of Managers of the National Home for Disabled Volunteer Soldiers	505 1178	2 4
Certificate of merit for unattached enlisted men, etc	542	2
Detail of certain Army officers	236	1
Detail of certain officers for special duty in connection with the World's Columbian Exposition	1470	5
Fort Brown military reservation	2050	10
Grade of certain medical officers of the Army	894	3
Helena, Mont., military post at	623	2
Hospital corps of Army, pay of privates of	172	1

Subject.	Rept.	Vol.
OUTHWAITE, JOSEPH H.—Continued.		
From Committee on Military Affairs.		
Leonard Avenue Street Railway Company	1698	7
Lineal promotion of Army officers	171	1
McClure, Daniel	99	1
Promotion in the Army	1818	7
Promotion of enlisted men of the Army	1358	5
Records of volunteer armies (views of minority)	895	3
Sherman, William T., statue of	1459	5
PAGE, CHARLES H.		
From Committee on Claims.		
Arctic, Hawaiian bark, owners and crews of	918	3
Brooklyn, certain port wardens	1779	7
Brown, John J	1227	4
Calahan, Andrew J	795	3
Capron, Horace, estate of	664	2
Culver, Catherine P., heirs of	889	3
Davis, Jacob R., heirs of	1549	5
Doyle, P. H	1226	4
Ferris, John W	1589	5
Gallatin, United States revenue cutter, officers and crew of	1479	5
Hall, Dwight	715 1492	3 5
Hogan, Joseph C	1550	5
McKenzie, Lewis	665	2
Maynadier, William M	668 1640	2 5
New Haven, Conn., National Bank	667 1493	2 5
New York and Baltimore, night inspectors at ports of	2027	10
New York, certain port wardens	1779	7
Payne, John Howard, heirs of	355 1478	2 5
Roberts, George F	1551	5
Rowe, Philip C., heirs of	1548	5
Russell, Charles T	663	2
Sadler, James Garret	1066	4
Scott, John	2028	10
Shimmins, William M	1226	4
Sinnott, P. B	685	2
Tice, Isaac P., estate of	919	3
Toledo, Ohio, Genron Iron Wheel Company	356	2
Van Vleck, B. J	790	3
Walter, Amanda G	1558	5
Wilson, H. B., administrator	1228	4
Wilson, William F	666	2
From Committee on Manufactures.		
Sweating system of tenement-house labor	164	1
PAGE, HENRY.		
From Committee on Naval Affairs.		
Dull, John C	1473	5
Glass, Henry	1250	4
Jouett, James E	1641	5
Kelly, Denis	1477	5
Rose, John G	1991	10
Terrell, D. J	1420	5
Yorke, Louis A	1990	10
PARRETT, WILLIAM F.		
From Committee on Pensions.		
Allen, George R	247	1
Alvis, Henry J	1354	5
Carlton, Ambrose B	1892	7
Enlow, Thomas	977	4

Subject.	Rept.	Vol.
PARRETT, WILLIAM F.—Continued.		
From Committee on Pensions.		
Israel, Pleasant R	1355	5
Marshall, George	898	3
Reed, James, jr	1353	5
PATTERSON, JOSIAH.		
From Committee on Interstate and Foreign Commerce.		
Regulation of steam vessels	1897 1972	7 10
Revenue cutters for Great Lakes	820	3
Revenue cutters for Pacific coast	819	3
PATTISON, JOHN M.		
From Committee on the Post-Office and Post-Roads.		
Free delivery of mail in rural districts	1352	5
PATTON, DAVID H.		
From Committee on Military Affairs.		
Alden, Warren Alonzo	1089	4
Biddle, Jerome H	105	1
Certain volunteer soldiers	735	3
Chesbrough, Nicholas G	610	2
Civil war, soldiers of	1894	7
Courchaine, Daniel B	363	2
Curridon, James	761	3
Daniel, Calvin	1028	4
Eldridge, Daniel	1164	4
Frost, John G	753	3
Gillingwaters, J. E	573	2
Holloway, William H	1904	7
Hyland, Patrick	523	2
Jennings, James C	1906	7
Johnson, Joseph	1265	4
Keach, Albert	357	2
McCalmant, Elisha	1027	4
Ottstotts, Frederick	599	2
Patton, S. K. N	180	1
Pringle, William N	1810	7
Records of volunteer armies	895	3
Robinson, John W	1134	4
Soldiers who were mustered as officers after March 3, 1865, pay of	1015	4
Steward, Charles B	1518	5
Taylor, Jesse C	1026	4
Thomas, Madison A	1905	7
Tuttle, Montgomery M	1395	5
Utter, Joseph G	1266	4
Van Fossen, John	178	1
Warren, Alexander	1394	5
War with Mexico, soldiers of	1894	7
Wickham, Francis W	1455	5
Wilson, Ezra A	179	1
Wise, Curtis P	181	1
PEARSON, ALBERT J.		
From Committee on Accounts.		
Annual clerk for Committee on Accounts	752	3
From Committee on Invalid Pensions.		
Barber, Alonzo D	860	3
Burns, Anna Morgan	1138	4
Day, Ellen	1390	5
Deyo, Jonas	1885	7
Hammond, Robert	1380	5
Hewett, Ellen	939	3
Hineline, Sophia Bruner	536	2
McCabe, Elizabeth	1241	4

Subject.	Rept.	Vol.
PEARSON, ALBERT J.—Continued.		
From Committee on Invalid Pensions.		
Prather, Thomas T	1156	4
Revision of the pension laws	1853	7
Scott, John	859	3
Sharp, Louisa B	1557	5
Thompson, Thomas	840	3
Trickey, Mary E	678	2
Tucker, Mary	1878	7
Wilson, Frances B	1447	5
PEEL, SAMUEL W.		
From Committee on Indian Affairs.		
Appropriation bill	325 1052	2 4
Cherokee Outlet	1631	5
Choctaw and Chickasaw Indians	1661	7
Citizenship of Indians	1130	4
Delaware Indians, payments to	122	1
Denison and Northern Railway Company	1060	4
Hutchison and Southern Railroad Company, right of way to	3	1
Kickapoo Indians, Oklahoma Territory	1662	7
West, Bluford, estate of	182	1
PENDLETON, JOHN O.		
From Committee on Public Lands.		
Blankenship, John R	788	3
Talkington, Isaac W	481 1655	2 7
PICKLER, JOHN A.		
From Committee on Public Lands.		
Timber-culture laws	915 1495	3 7
Yellowstone National Park, views of minority	1956	10
From Committee on War Claims.		
Allsworth, Edward	1186	4
Atkinson, Mary Ellen, administratrix of Richard	285	1
Avery, John, estate of	1724	7
Birchett, William G., estate of	1724	7
Burke, Hannah	1724	7
Campbell, George J	1072	4
Chapin, Gurder	1188	4
Cooper, Hudson, legal representatives of	776	3
Cranston, Sarah M	1328	5
Doyle, William	776	3
Driscoll, John J	1184	4
Dulin, A. F., estate of	1724	7
Edwards, Sarah Upton	1071	4
Eppes, John W	564	2
Fitzgerald, Michael J	1126	4
Gomez, Edwin	398	2
Goodloe, Mariam, and others	1481	5
Henderson, Robert	1183	4
Hobbs, Thomas M	1724	7
Large, William	395	2
Lee, Lucy Ann and Allen G	287	7
Lowe, William W	1127	4
McCann, Michael	1191	4
Maddox, Margaret, Virginia	970	4
Matheny, Thomas M	396	2
Moonlight, Thomas	838	3
Mullins, Martin	1189	4
Murdock, Emily	1371	5
Nevada, claims of certain persons in	117	1
Poland, Alexander, estate of	394	2

Subject.	Rept.	Vol.
PICKLER, JOHN A.—Continued.		
From Committee on War Claims.		
Point Pleasant (W. Va.) Methodist Church	827	3
Pritchard, Catharine M	399	2
Reed, Thomas B	1192	4
Regan, James	288	1
Richards, Amelia A. H	400	2
Saunders, Henry S	300	1
Short, Hatcher and Hiram	563	2
Smyser, Jacob H	1185	4
Stewart, James	1187	4
Taylor, Jane, estate of	1724	7
Taylor, Stewart	1190	4
Travilla, Robert	286	1
Urquhart, C. Augusta	397	2
Young, Thomas L	684	3
POST, PHILIP S.		
From Committee on the District of Columbia.		
Overhead electric wires	1629	5
POWERS, H. HENRY		
From Committee on the Judiciary.		
District of Kentucky, terms of United States courts	1971	10
Presidential succession	160	1
Taking depositions in criminal cases	446	2
PRICE, ANDREW		
From Committee on Interstate and Foreign Commerce.		
Des Moines, Iowa, port of delivery at	852	3
English Bayou and Calcasieu River, bridge across	942	3
Marquette, Mich	853	3
Superior and Ashland, Wis., subports of entry	999	4
RAINES, JOHN		
From Committee on Reform in the Civil Service.		
Appointments in the public service	1925	7
RANDALL, CHARLES S.		
From Committee on Interstate and Foreign Commerce.		
Butler Flats, New Bedford, Mass., light and fog-signal station near	187	1
Gay Head, Mass., life-saving station at	188	1
RAY, GEORGE W.		
From Committee on the Judiciary.		
Northern judicial district of Georgia	444	2
Private Land Claims, Court of	1173	4
Reserve fund	1780	7
Revised Statutes, amending section 828	445	2
Revised Statutes, Supplement to	1867	7
Suits against the Government of the United States	1706	7
Supreme court of Utah, justices of	232	1
Terms of United States courts, northern district of New York	1013	4
RAYNER, ISADOR.		
From Committee on Foreign Affairs.		
Amending section 19, act to regulate commerce	1457	5
Columbian exposition at Madrid	923	3
Jews in Russia	1177	4
From Committee on Interstate and Foreign Commerce.		
Special rates to commercial travelers by railroad companies	186	1
REED, THOMAS B.		
From Committee on Ways and Means.		
Silver lead ores (minority)	1372	5
REILLY, JAMES B.		
From Committee on Columbian Exposition.		
Certain articles from Smithsonian Institution	1512	5
Certain models, drawings, etc	1513	5

Subject.	Rept.	Vol.
REYBURN, JOHN E.		
From Committee on Claims.		
Blum, Emile M., and J. M. Seymour	1609	5
Chester, Walter B., schooner, owners of	1610	5
Redfern, Joseph and Eliza	1611	5
White, F. F	1608	5
RICHARDSON, JAMES D.		
From Committee on District of Columbia.		
Petworth, Brightwood and Takoma Railway Company	1289	4
Resubdivision of square 673, Washington	1626	5
Suburban Railway Company	326	2
From Committee on Printing.		
Addresses delivered on presentation of portraits of Speakers Grow and Randall	229	1
Annals of Congress, etc	365	2
Bureau of Animal Industry, eighth and ninth annual reports of	1339	5
Bureau of Ethnology, eleventh and twelfth annual reports of	1338	5
Congressional Directory, maps of Congressional districts in	246	1
Diseases of the horse, special report on	726	3
European immigration, report of	1347	5
Gamble, John R., eulogies upon	1128	4
Geographic Names, report of Board on	474	2
Government Printing Office, site for	687	3
Houk, Leonidas C., eulogies on	364	2
International Geological Congress, proceedings of	1341	5
List of documents	1340	5
Official map of the United States for 1892	1404	5
On the question of expunging from the record a portion of the remarks of Joseph H. Walker	799	3
Precious metals in the United States	1208	4
President's annual message	308	7
President's message respecting relations with Chile, etc	307	1
Public documents, distribution of	1092	4
Public printing and binding	1092	4
Report of sanitary engineers	1348	5
Rules and Practice of the House of Representatives, Manual and Digest of	762	3
Senate report 395, Forty-third Congress	800	3
United States Civil Service Commission ,eighth report of	1337	5
Wages of certain employés of the Government Printing Office	1654	7
ROBINSON, JOHN B.		
From Committee on Invalid Pensions.		
Heazlitt, John C	2007	10
Phipps, Ellis P	740	3
ROCKWELL, HOSEA H.		
From Committee on Indian Affairs.		
Indian Territory, admission of	1927	7
From Committee on Military Affairs.		
Amendment of the record of certain honorably discharged soldiers	733	3
Anderson, Allen L	1082	4
Bounties to veteran volunteers	732	3
Boyd, Augustus	1809	7
Cohn, Henry S	907	3
Cramer, Delos	452	2
Equalization of bounties	729	3
Field, Francis A	1814	7
Greene, George S	1080	4
Heirs of certain soldiers	924	3
Hogarty, William P	928	3
Holmes, Prentice	960	4
Knapp, Andrew B	1602	5
Kolter, Frederick E	949	4

Subject.	Rept.	Vol.
ROCKWELL, HOSEA H.—Continued.		
From Committee on Military Affairs.		
Long, Francis, and others	642	2
McDonald, Orin A	951	4
McDonald, Orin R	947	4
McLaughlin, Thomas A	948	4
Medical officers during late civil war	1067	4
Muster and pay of certain officers and enlisted men of volunteers	728	3
National encampment of the Grand Army of the Republic	2086	10
Oilver, Aaron J	100	1
Rank and pay of certain soldiers	734	3
Ransom, Dunbar R	950	4
Read, Henry A	453	2
Regan, James	996	4
Removing disabilities from certain officers (maximum)	730	3
War of rebellion (maximum grade)	731	3
Retired enlisted men of the Army and Marine Corps, pay and allowance of	824 826	3 3
Retired list for privates and noncommissioned officers of the Army	823	3
Sarsfield, David	2023	10
Small, Michael P	920	3
Smith, William, and others	352	2
Street, Harlow L	353	2
Wilson, William	1285	4
Woodson, Warren A	1081	4
Zell, Henry	647	2
RUSK, HARRY WELLES.		
From Committee on Accounts.		
Bell, Thomas P	1323	5
Clerks to House Committees	1	1
Folders after adjournment	2144	10
Messenger for the Committee on Rivers and Harbors	473	2
Special messengers	248	1
Stenographer and assistant clerk to committee investigating Pension Bureau, pay of	1322	5
SAYERS, JOSEPH D.		
From Committee on Appropriations.		
Census deficiency bill	432	2
Eleventh Census	9	1
General deficiency bill	1666	7
Inquiry concerning World's Fair	10	1
Pension deficiency bill	1580	5
Urgent deficiency appropriation bill	526 963 1331	2 4 5
SCOTT, OWEN.		
From Committee on War Claims.		
Adams, Charles H	349	4
Alsbury, Edward P	219	1
Alsup, John F	848	3
Armistead, Vincent	1271	4
Ayers, Asa B	1270	4
Banks, Charles	1046	4
Baugh, William	1271	4
Beckham, William R	1271	4
Blue, Solomon, estate of	305	1
Brandt, Jesse L	1272	4
Brown, Thomas J	1042	4
Burton, William	1045	4

Subject.	Rept.	Vo
SCOTT, OWEN—Continued.		
From Committee on War Claims.		
Campbell, J. M., estate of	1272	
Camp Tyler, Illinois, owners and occupants of	1637	
Claims of any State for defense of the United States	552	
Cobb, O. P., and others	351	
Cobb, O. P. and J., & Co., surviving partners of	350	
Core, A. S	551	
De Bevoise, S. H., estate of	1270	
De Loach, Claiborne, estate of	1270	
De Loach, Claiborne, heirs of	1272	
Flesschert, Martha E	1497	
Franklin, William A., executor of J. B	1272	
Grimmett, Matthew N	1271	
Grisson, Sarah	653	
Groves, John H	1165	
Haigh, A. V	1042	
Hayes, Samuel	1272	
Heberlein, August, estate of	1270	
Holland, James L., estate of	1271	
Holsten Female College	1272	
Hubbard, Mary Jane	1272	
Johnson, Joseph B	1271	
Jones, John	1271	
Jordan, R. D., guardian	1272	
Keating, Martin	879	
Lake, Daniel, deceased	1047	
Litten, Julius B	1271	
McLean, Louisa E	1272	
McMurtrey, John	1271	
Martin, Cyrus	554	
Musgrave, Emeline E	303	
Nalley, Samuel M	302	
Northrup, Charles, estate of	1270	
Payne, William B	259	
Peeden, Martha J., administratrix of Haywood	1271	
Pemberton, Fannie	306	
Reilly, John	995	
Simmons, H. S., estate of	1272	
Simpson, Cassa	1271	
Somerville, Hiram	304	
Spaulding, R. A., administrator	305	
Starn, Levi	553	
Sullivan, John	218	
Talbott, Jacob J	1269	
Westmoreland, Mary H	1271	
Wheat, Isaac H	560	
White, Thomas W	561	
Wilkes, Francis	1271	
Williamson, A. D	1271	
Wytsinger, John	1271	
SCULL, EDWARD.		
From Committee on Pensions.		
Chadwick, Susannah	714	
SEERLEY, JOHN J.		
From Committee on Accounts.		
Fifteen additional folders	725	
From Committee on the Public Lands.		
Dakota, correcting description of certain land grants	385	
Settlers on Des Moines River lands	1075	
University of California	253	

Subject.	Rept.	Vol.
SHELL, GEORGE W.		
From Committee on War Claims.		
Adams, O. T	521	2
Baudry, Omer	1428	5
Baynard, Joseph S., and others	1692	7
Bell, Josiah L	1431	5
Brown, Florence A	1010	4
Carl, David and Barbette	1428	5
Cunningham, Calvin B	391	2
Deems, Lewis	1008	4
Dickson, Davidson, and others	392	2
Dyer, Rachel	262	1
Eldredge, Hallam	1691	7
Elliott, John R	1428	5
Gardner, Fannie E	1585	5
Garrot, Pierre	1428	5
Johnson, Rinaldo and Ann E	890	3
Knight, Joseph	1428	5
McElhose, James B	1704	7
Mastick Henry, administrator of	1058	7
Montgomery, Mary Ann	1691	7
Morehead City, N. C	1430	5
Morrow, William B	282	1
Neidlinger, Charles V	1007	4
Oglesby, L. T	1433	5
Pope, Daniel T., and others	1025	4
Porche, Louis V	1428	5
Priddy, John D., heirs of	1958	10
Sowers, Frank S	1429	5
Sugg, L. D	393	2
Tillman, Francis	1057	4
Tolson, John J	1432	5
Wagner, George	1058	4
Wells, James	1692	7
SHIVELY, BENJAMIN F.		
From Committee on Ways and Means.		
Tin plate, terne plate, and taggers tin	1040	4
SHONK, GEORGE W.		
From Committee on Public Buildings and Grounds.		
Public buildings, to erect, at Muncie, Ind	2108	10
Pottsville, Pa	1508	5
Washington, D. C., purchase of lot 10, square 683	2107	10
Wilkesbarre, Pa	1101	4
SIMPSON, JEREMIAH.		
From Committee to Investigate Charges Against Conduct of Members on the Floor of the House.		
Report of investigation, minority	2132	10
From Committee on the Territories.		
Cattle on Cherokee lands in violation of law	2085	10
SMITH, GEORGE W.		
From Committee on Claims.		
Baltimore, Md., Merchants and Miners' Transportation Company	1728	7
Cairo, Ill	1524	5
Continental Fire Insurance Company, New York, and others	1730	7
Dispatch (U. S. S.), sufferers by wreck of	1749	7
Harrington, Louisa	120	1
Hot Springs Mountain Reservation	1547	5
Hubbard, Royal M	1734	7
Keightley, William M	1731	7
Lewis, Mary A	1224	7

Subject.	Rept.	Vo
SMITH, GEORGE W.—Continued.		
From Committee on Claims.		
Lockwood, Chauncey M	1604	
New York, Lake Erie and Western Railroad Company	1484	
Rockefellow, B. F	1732	
Ryan, David	1546	
Smith, Thomas J	118	
Tabor, H. A. W	1733	
Whitall, Catherine E	1729	
Zazone, Julius C	119	
SNOW, HERMAN W.		
From Committee on Invalid Pensions.		
Barnett, Druke Nettie	1240	
Boyd, George W	1302	
Brown, Ellen Miles	772	
Christopher, Mary B	913	
Ferris, Adelia S	1 98	
Frymire, George L	064	
Gibson, Guy W	2065	
Hahn, Lydia E	2861	
Harris, Martha A	1805	
Heninger, Louis	1446	
Hull, Mary E	863	
La Tourette, Henry S	1029	
Leibarger, Phebe, estate of	862	
Pension and other claims, prosecution of	1531	
Reeves, Louisa J	1623	
Rigg, Druzilla J	2097	
Ross, Mary Ann	938	
Skeels, Laura E	437	
Webster, Amelia R	1533	
SMITH, MARCUS A.		
From Committee on the Public Lands.		
Amending chapter 559, Statutes at Large	1379	
New Mexico, additional land office in	1399	
Railroad land grants, certain settlers within	987	
Tucson land district, Arizona, settlers on public lands in	1664	
Unsurveyed lands within the Atlantic and Pacific Railroad land grants in Arizona and New Mexico	992	
From Committee on the Territories.		
Arizona, admission into the Union of	737	
funding act of	441	
ratifying an act of the legislature	423	
SPRINGER, WILLIAM M.		
From Committee on Ways and Means.		
To place wool on free list and reduce duties on woolen goods	501	
STEWART, CHARLES.		
From Committee on Rivers and Harbors.		
River and harbor bill	1468	
Ropes Pass, jetties, piers, and breakwaters at mouth of	1675	
Trinity River, Texas, navigation of	1841	
STOCKDALE, THOMAS R.		
From Committee on the Judiciary.		
Courts of United States, opening to certain American citizens	1079	
Mississippi, clerks in United States circuit and district courts of	932	
Readjustment of certain accounts	1209	
Terms of circuit and district courts at Littleton, N. H	442	
Wisconsin, United States Courts in	176	
STONE, WILLIAM A.		
From Committee on Rivers and Harbors.		
Philadelphia, Pa	622	
Public Works on the Mississippi River, willful injury of	767	

Subject.	Rept.	Vol.
STONE, WILLIAM J.		
From Committee on War Claims.		
Allard & Crozier	49	7
Allen, L. D	648	2
Allen, Martha A., administratrix of Wyatt M	597	2
Anderson, A. E	649	2
Armelin, Charles, estate of	831	3
Athens, Ala., Cumberland Presbyterian Church	1180	4
Atlanta, Ga., St. Philip's Church	660	2
Austin, Sterling T., heirs of	125	1
Baker, Sarah K. T	132	1
Bass, Giles W	650	2
Bell, Mary A	660	2
Bigley, Nicholas J	343	2
Billingslea, Walter R	649	2
Bishop, James	136	1
Black, Joseph	832	3
Bloom, Henrietta Y	832	3
Boardman, William, administrator of	798	3
Booth, M. A	659	2
Bowling, John, heirs of	1545	5
Breaux, Pierre	831	3
Brewer, Elvy	657	2
Briant, Mrs. E. H	831	3
Bridges, Sarah E	661	2
Bridgewater, P. H	1408	5
Broadwell, Marcus L	153	1
Brooks, John G. W	32	1
Brown, Thomas	650	2
Bugg, J. H., and others	127	1
Burditt, Augustus P	342	2
Caldwell, John R	650	2
California	254	1
Carpenter, George	650	2
Carr, Rogers & Co	814	3
Cazes, Bertrand & Gaudin	47	1
Certain claims for stores and supplies	1510	5
Cheek, R. T	648	2
Chouteau, Charles P	50	1
Chum, A. B	651	2
Citizens' Bank, Louisiana	340	2
Claims of States	555	2
Clapp, George M	268	1
Collins, Joseph	832	3
Cook, James A	1638	5
Cook, Jared R	649	2
Cook, Matilda	138	1
Cordill, Joseph	829	3
Cothes, H., heirs of	26	1
Cousens, George Lewis	216	1
Crider, S. F	131	1
Cross, Joel	660	2
Crow, William	658	2
Crum, Elizabeth and B. L	597	2
Cummings, Phœbe	649	2
Cynthiana, Ky., destruction of property	413	2
Darly, F. O., estate of	831	3
Davis, A. W	598	2
Davis, Mark, heirs of	33	1
Davis, Mark, legatees of	1636	5
Davis, Marshall	648	2
Davis, Mrs. M. M	649	2
Debnam, Thomas R	661	2

Subject.	Rept.	V
STONE, WILLIAM J.—Continued.		
From Committee on War Claims.		
D catte, Owden	832	
Dennis, Mary A	832	
Doherty, M. A	649	
Donato, Belote A	832	
Dorr, John N	137	
Dougherty, Mary A	648	
Douglass, W. W., adminstrator	832	
Downing, A. B., estate of	649	
Duffy, Eugenia and W. B	829	
Elzey, John	829	
Ennis, William B	129	
Engs, Samuel F	596	
Fagot, Emile, heirs of	832	
Fels, Samuel	134	
Filhiol, Hypolite, and others	45	
Fletcher, Nathan, heirs of	1179	
Flowers, Elizabeth	661	
Fraliex, Martin	660	
Frasuer, Eli	660	
Frizell, James S	135	
Frobel, Elizabeth D. and Anna S	140	
Fuller, J. B	648	
Fusilier, Corinne Perret	831	
Gallott, Julia	832	
Gilfoil, Patrick	829	
Goodrich, A. E. and M. E	832	
Govan, J. J	658	
Greenhill, Thomas C	650	
Gregory, James A	156	
Guidry, Lesant, heirs of	831	
Groom, William G	139	
Gullory, Martin	832	
Hall, Goff A	52	
Hall, Warren	53 1361	
Hamilton, G. Dwight	375	
Harvill, Mrs. L. J	651	
Haywood, Mrs. W. Dallas	661	
Heard, James A	650	
Hebert, Eliza E	54	
Heborn, Adaline L., estate of	649	
Heiskell, Ann E	143	
Henson, Hugh M	42	
Higgin, Richard, estate of	658	
Higgins, John M	605	
Hildreth, William W., deceased	36	
Hill, Alexander, estate of	832	
Hill, Joseph A	659	
Hoffman, R. H	322	
Holbrook, Julia	659	
Holt, C. G., administrator of Willey	661	
Hopper, W. A., administrator of David	649	
Hughes, William	48	
Hughes, William H., administrator	43	
Humphries, Julia A	149	
Hurdle, Eunice	597	
Interest on money expended in raising troops	555	
Isgrig, Thomas C	412	
Izard, Florimond	832	
Jean, Francis, sr	832	
Joiner, Nathan	1889	

Subject.	Rept.	Vol.
STONE, WILLIAM J.—Continued.		
From Committee on War Claims.		
Tatin, Jean Marie	832	3
Thompson, John B., estate of	1206	4
Thorne, John D	146	1
Travis, W. C. M	130	1
Traweek, Mrs. E. L	657	2
Turner, Zeph	534	2
Unsell, David, estate of	43	1
Valleau, Sarah J	832	3
Vaughan, W. H	155	1
Verdin, Romain, estate of	831	3
Vignes, Polona	832	3
Walker, Julius	659	2
Wallace, Thomas	658	2
Ware, Henry	44	1
Warterfield, P. F., deceased	1131	4
Watkins, Nancy	650	2
Webb, William S	650	2
Whitaker, William	649	2
Wilhite, H	1891	7
Williamson, John E., administrator	1206	4
Willis, William B., deceased	649	2
Woolbridge, William E	177 1393	1 5
STONE, CHARLES W.		
From Committee on Coinage, Weights, and Measures.		
Free coinage of gold and silver bullion, views of the minority	1839	7
STOUT, BYRON G.		
From Committee on Public Lands.		
Chelan, Okanogan County, Wash	237	1
Mexican Gulf, Pacific and Puget Sound Railroad Company	1792	7
Relief of inhabitants, Ferron, Utah	252	1
Yellowstone National Park, boundaries of	1574	5
STUMP, HERMAN.		
From Committee on Immigration and Naturalization.		
Chinese immigration	255	10
Ellis Island, investigation of	2090	12
Immigration and contract labor laws, enforcement of	1573	5
Proposed immigration investigation	411	2
SWEET, WILLIS.		
From Committee on Public Lands.		
Mineral lands, examination and classification of certain, views of minority	1415	5
TARSNEY, JOHN C.		
From Committee on Labor.		
Bureau of Engraving and Printing, leaves of absence in	408	2
Eight-hour law, etc	427	2
Labor troubles, Idaho	2016	10
Mechanics and laborers, hours of labor of	1267	4
From Committee on Public Buildings and Grounds.		
Alpena, Mich	1849	7
Erection of public buildings	1078	4
Kansas City, Kans	2130	10
Kansas City, Mo	1108	4
Pine Bluff, Ark	2126	10
Plattsmouth, Nebr	2052	10
TAYLOR, ALFRED A.		
From Committee on Invalid Pensions.		
Hood, Julia	1553	5
Reardon, Mary Catharine	532	2

Subject.	Rept.	Vol.
TAYLOR, EZRA B.		
From Committee on the Judiciary.		
Additional clerk for district and circuit court, eastern district of Arkansas	295	1
Captured and abandoned property, views of minority	1377	5
Court of Claims, disposition of causes in	1259	4
Defining the crimes of murder in the first and second degree	504	2
Idaho, United States courts in	309	1
Revival of suits in certain cases	383	2
Western judicial district, Wisconsin	2	1
West Virginia, time for holding circuit and district courts in	933	3
TERRY, WILLIAM L.		
From Committee on the Territories.		
Indian Territory, carriage of passengers by railroads	1460	5
certain laws for	1893	7
Oklahoma, carriage of passengers by railroads	1460	5
certain laws for	1095	4
temporary government for	2054	10
TILLMAN, GEORGE D.		
From Committee on Patents.		
Foreign exhibitors	626	2
TOWNSEND, HOSEA		
From Committee on Public Lands.		
Colorado School of Mines	841	3
Lands entered under the desert-land laws	1993	10
TUCKER, HENRY ST. G.		
From Committee on Election of President, Vice-President, and Representatives in Congress.		
Election of Senators	368	2
From Committee on Public Lands.		
Forfeiture of certain lands	1555	5
Montana Mineral Railway Company	854	3
TURNER, HENRY G.		
From Committee on Ways and Means.		
Bagging for cotton, etc	503	2
TURPIN, LOUIS W.		
From Committee on Indian Affairs.		
Cherokee Indians, Eastern Band of	1871	7
VAN HORN, GEORGE		
From Committee on Invalid Pensions.		
Bowden, Elizabeth	768	3
Byron, Margaret	1877	7
Claiborne, Courtney Ann	1898	7
Fritcher, Elizabeth L	1620	5
Hall, Minnie	531	2
Holmes, Eliza	1876	7
Kelly, Elizabeth	65	1
Mailloux, Belle Carlton	1085	4
Maloy, Bridget	66	1
O'Connor, Mary	1301	4
Shaw, Clara V	1388	5
Smith, Caroline	1032	4
Smith, Edward S., accrued pension of	421	2
Smith, Mary C	1556	5
Stevens, Harriet W	2055	10
From Committee on Private Land Claims.		
Claiborne, Courtney Ann, heirs of	1898	10
WARNER, JOHN DE WITT		
From Committee on Public Buildings and Grounds.		
Allentown, Pa	2109	10
Baltimore, Md., (custom-house)	2111	10
Bradford, Pa	1999	10
Bridgeport, Conn	2110	10

Subject.	Rept.	Vol.
WARNER, JOHN DE WITT—Continued.		
From Committee on Public Buildings and Grounds.		
Brockton, Mass	1116	4
Buffalo, N. Y	1117	4
Camden, N. J	1506	5
Elizabeth, N. J	1744	7
Elmira, N. Y	1848	7
Fire in House of Representatives folding-room	1456	7
Fitchburg, Mass	1820	7
Hartford, Conn	1821	7
Hoboken, N. J	1794	3
Hot Springs, Ark. (sale of school lot)	738	5
Jamestown, N. Y	1507	0
McKeesport, Pa	2112	14
Nashua, N. H	1122	7
New York, N. Y. (new custom-house)	1742	4
Paterson, N. J	1102	7
Pittsburg, Pa., sale of certain United States property	1743	5
Pottsville, Pa	1508	4
Providence, R. I	1121	0
Rome, N. Y	2121	14
Suspension Bridge, N. Y	1115	4
Waterbury, Conn	1120	5
WARWICK, JOHN G.		
From Committee on Public Buildings and Grounds.		
Public building, to erect at Massillon, Ohio	1124	4
WASHINGTON, JOSEPH E.		
From Committee on the Territories.		
Oklahoma, funding county debts of	991	4
reserving lands in	1095	4
Utah, exhibit at Columbian Exposition	993	4
local government of	943	3
WAUGH, DANIEL		
From Committee on Pensions.		
Kennedy, Thomas S	1929	7
From Committee on the Revision of the Laws.		
Postal laws, amendment to	696	3
WEVER, JOHN M.		
From Committee on Claims.		
Lints, J. J	917	3
Merritt, Edwin A	683	2
Mordecai, M. C., administrator of	717 1139	3 4
WHEELER, HARRISON H.		
From the Select Committee to Investigate the Methods and Management and Practices of the Pension Bureau.		
Report of investigation	1868	8-9
WHEELER, JOSEPH		
From Committee on Military Affairs.		
Alcantara, Francisco	1202	4
Appropriation for Military Academy	5 925	1 3
Bagshaw, George	205	1
Beshears, Alvis	158	1
Bevins, Samuel	208	1
Board of review	1074	4
Bourke, John G	1137	4
Bovell, John V	193	1
Boyd, Orsemus B	751	3
Brooks, S. J	1797	7
Buckner, Benjamin F. (or Taylor)	196	1
Burdette, John C	206	1
Casey, Peter	194	1

Subject.	Rept.	Vol.
WHEELER, JOSEPH—Continued.		
From Committee on Military Affairs.		
Cozad, Henry	2041	10
Cutts, J. Madison	2118 2131	10 10
Edwards, Richard M	109	1
Freedley, Henry W	1203	4
Gage, E. Darwin	2033	10
Hanson, Willis F	201	1
Hershe, Benjamin F	200	1
Horn, Fritz	209	1
Huse, Caleb	2034	10
Jackson, George	197	1
King, Orris O	204	1
McFarland, James A	195	1
Murray, Joseph	202	1
Schlapp, August	198	1
Scott, Austin A	199	1
Sheehy, Michael	207	1
Simpson, Isaac S	2125	10
Thompson, George W	192	1
Workman, Thomas C	210	1
Wright, Henry H	203	1
WHITING, JUSTIN R.		
From Committee on Ways and Means.		
Silver-lead ores	1372	5
Wearing apparel and personal effects admitted free of duty	1537	5
WILLIAMS, ARCHIBALD H. A.		
From Committee on Public Buildings and Grounds.		
Durham, N. C	1123	4
WILSON, JOHN L.		
From Committee on Indian Affairs.		
Colville Reservation, agreement with Indians of	1035	4
Right of way through Puyallup Indian Reservation	1945	7
WILSON, ROBERT P. C.		
From Committee on Pensions.		
Absher, Anderson	1980	10
Anderson, Samuel S	1783	7
Askew, John J	2029	10
Athon, Levenia D	1930	7
Aubrey, Andrew J	1983	10
Bacon, Mary L	1762	7
Barnard, Anna E	2076	10
Belger, Fanny N	1786	7
Bell, Luman	2089	10
Bethards, Henry J	975	4
Birch, William A	223	1
Bolings, Samuel J	222	1
Bradford, Joseph J	1710	5
Bridges, Rebecca	1982	10
Briggs, Samuel G	1949	7
Brown, Elisha	1861	7
Burrough, William	743	3
Burton, Felix	1843	7
Byrd, Susan C	1932	7
Calhoun, Maggie E	1715	7
Campbell, Nancy	1782	7
Campbell, Robert S	1757	7
Carpenter, Ellen	2047	10
Chapman, Edward R	902	3
Churchill, Benjamin	976	4
Clark, George W	2031	10
Cleaveland, Jesse	1836	7

Subject.	Rept.	Vol.
WILSON, ROBERT P. C.—Continued.		
From Committee on Pensions.		
Coffman, Joseph	2048	10
Conroy, Eliza	2077	10
Copen, Addison M	998	4
Copenhaver, A. J	1934	7
Craig, Joseph	1992	10
Crawford, Elizabeth R	336	2
Dally, Abraham	1709	7
Davis, James A	339	2
Davis, Susanna	1838	7
Day, Cornelius	1997	10
Dean, John A	1863	7
Donnelly, Peter	805	3
Dunn, Philip G	1714	7
Dyall, James R., widow of	1978	10
Falkner, Nathan	1760	7
Farquharson, Mrs. S. A	1785	7
Fisher, Samuel O	55	1
Fields, John	2030	10
Frazier, Stark	679	2
Goodwin, Miles	1051	4
Graham, Amelia	1981	10
Granberry, Joseph J	1765	7
Hall, Jacob	1834	7
Harley, Elizabeth	1835	7
Hollis, Mary	1994	10
Jergins, Jesse J	1777	7
Jobe, Lavina	1711	7
Jones, Andrew J	338	2
Kennedy, Anthony M	807	3
Kingsley, Sterling	1775	7
Kirtley, James W	1716	7
Kramer, Andrew	681	2
Landes, Abraham	901	3
Lane, James	1832	7
Lane, Lewis	221	1
Lang, D. M	899	3
Larnard, Helen	2116	10
Luttrell, Samuel	1961	10
Lyon, Harry	1948	7
McElvey, Harmon H	489	2
Malloy, John	1996	10
Matlock, John	2032	10
Menefee, Mary A	1712	7
Mercer, John	900	3
Merritt, Henry	1778	7
Mexican war, increase of pension to certain soldiers	1959	10
Morgan, Benjamin	1977	10
Murphy, Susan S	1979	10
Nindemann, William F. C	981	2
Owen, L. D	1931	7
Pierce, Eliza B	1837	7
Prator, John D	1776	7
Ramey, Jonathan	488	2
Reed, David	806	3
Renfro, Nancy E	224	1
Riggs, Reuben	1713	7
Rowland, Thomas J	1964	10
Russell, William	1833	------
Sanderson, Louis G	1995	10
Sigler, Phebe	1758	7
Simmons, Abraham B	1759	7

Subject.	Rept.	Vol.
WILSON, ROBERT P. C.—Continued.		
From Committee on Pensions.		
Simmons, Margaret C	1784	7
Slaughter, Ann Mercer	2084	10
Smith, Caroline A	808	3
Smith, James	1781	7
Staley, Noah	337	2
Tendoy, Chief of Bannock, Shoshone, and Sheepeater tribe of Indians	1830	7
Thomas, Edward	680	2
Trimble, Mary E	1862	7
Tucker, Thomas	1998	10
Turner, Margaret	56	1
Ware, Perry G	973	4
Watson, William M	1719	7
Webster, Amelia R	804	3
White, George W	487	2
White, Jeremiah	1764	7
Woodward, William S	485	2
Worthington, Betsey	486	2
Wright, Julia P	1761	7
Young, Anna Maria	447	2
Youngblood, Rebecca M	1962	10
WILLCOX, WASHINGTON F.		
From Committee on the Eleventh Census.		
Eleventh Census	1171	4
Investigation of Census Office	1170	4
Permanent Census Bureau	1068	4
WINN, THOMAS E.		
From Committee on Private Land Claims.		
Segoura, Raphael	1812	7
From Committee on War Claims.		
Anderson, Mary H., widow of Hiram	1370	5
Ashe, John Baptiste, legal representatives of	1132	4
Athens, Ala., Cumberland Presbyterian Church of	310	1
Blackistone, Richard P	1362	5
Brooks, William H. H	1488	5
Burks, William H. H	1488	5
Cartersville (Ga.) First Baptist Church	292	1
Clark, James S., estate of	377	2
Dalton, Ga., trustees of Catholic church	291	1
Delahoussage, Sidonie	1370	5
Deslonds, Mrs. Frank	1370	5
Dunklee, William M., administrator	1251	4
Edwards, Emily	1375	5
Fletcher, Nathan, heirs of	600	2
Florence (Ala.) Masonic Lodge	601	2
Garrison, Nemiah	111	1
Grivot, Maurice, heirs of	376	2
Harding, Francis E., estate of	1370	5
Huntsville (Ala.) Methodist Episcopal Church	264	1
Johnnot, William, and others, legal representatives of	1133	4
Kendall, William, legal representatives of	361	2
Lipscomb, James C	1268	4
Mount Zion Society	439	2
Newman, James M	524	2
Nichols, Frank H., estate of	243	1
Perry, O. H., administrator, George W	1801	7
Poullain, Mildred P	417	2
Refund of moneys collected by the United States	1363	5
Rogers, Benjamin F	244	1
Spaugh, Robert	265	2
Stoddart, Alexander	261	1
Ward, Enoch P	458	2

Subject.	Rept.	Vol.
WISE, GEORGE D.		
From Committee on Interstate and Foreign Commerce.		
Bridge across Mississippi River at Moline, Ill	941	4
Collectors and surveyors of customs	1233	3
Compagnie Française du Télégraphe de Paris à New York	964	4
Investigation of railroad combinations	1630	5
Laredo, Tex., subport of entry	544	2
Life-saving appliances on steamers	568	2
Newark, N. J	272	1
Ogdensburg, N. Y	235	1
Port of delivery, Council Bluffs, Iowa	507	2
Seaton, Norman	1619 1952	5 7
Velasco, Tex	545	2
West Point, Va	443	2
WOLVERTON, SIMON P.		
From Committee on the Judiciary.		
Arrest of offenders against the United States	1967	10
Boyd, Elizabeth T	946	4
Courts of United States, illegal practices in, etc	1966	10
Fees of clerks of United States courts	1970	10
Hankins, Joel S	946	4
Returns of fees by district attorneys, etc	1969	10
Transfers and assignments of claims against the United States	422	2
United States commissioners' fees	1968	10
YOUMANS, HENRY M.		
From Committee on Agriculture.		
Society of American Florists	476	2

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1.

CLERKS TO HOUSE COMMITTEES.

JANUARY 13, 1892.—Ordered to be printed.

Mr. RUSK, from the Committee on Accounts, submitted the following

REPORT:

[To accompany Miss. Doc. No. 39.]

The Committee on Accounts, to whom was referred the resolution of the House (passed on the 7th instant) authorizing and directing said committee to designate the committees of the House to which the clerks provided for by the legislative, executive, and judicial appropriation bill for the fiscal year ending June 30, 1892, should be allowed and assigned for the present Congress, and to report by resolution to the House for its action thereon, respectfully report that they have examined into and considered said matter, and report to the House and recommend the passage of the following resolution, namely:

Resolved, That the thirty-seven clerks to committees of the House during the session provided for by the legislative, executive, and judicial appropriation bill for the fiscal year ending June 30, 1892, be, and they are hereby, allowed and assigned for the present Congress to the following named committees, namely:

To the Committee on Banking and Currency, a clerk.
To the Committee on Coinage, Weights, and Measures, a clerk.
To the Committee on Territories, a clerk.
To the Committee on Railways and Canals, a clerk.
To the Committee on Manufactures, a clerk.
To the Committee on Mines and Mining, a clerk.
To the Committee on Pacific Railways, a clerk.
To the Committee on Levees and Improvements of the Mississippi River, a clerk.
To the Committee on Education, a clerk.
To the Committee on Labor, a clerk.
To the Committee on Militia, a clerk.
To the Committee on Patents, a clerk.
To the Committee on Invalid Pensions, two (assistant) clerks.
To the Committee on Pensions, a clerk.
To the Committee on Private Land Claims, a clerk.
To the Committee on Revision of the Laws, a clerk.
To the Committee on Expenditures in the State Department, a clerk.
To the Committee on Expenditures in the Treasury Department, a clerk.
To the Committee on Expenditures in the War Department, a clerk.
To the Committee on Expenditures in the Navy Department, a clerk.
To the Committee on Expenditures in the Post-Office Department, a clerk.
To the Committee on Expenditures in the Interior Department, a clerk.
To the Committee on Expenditures in the Department of Agriculture, a clerk.
To the Committee on Expenditures in the Department of Justice, a clerk.
To the Committee on Expenditures on Public Buildings, a clerk.
To the Committee on Accounts, a clerk.
To the Committee on the Library, a clerk.
To the Committee on Printing, a clerk.
To the Committee on Enrolled Bills, a clerk.
To the Committee on Reform in the Civil Service, a clerk.
To the Committee on the Eleventh Census, a clerk.

To the Committee on Ventilation and Acoustics, a clerk.
To the Committee on Alcoholic Liquor Traffic, a clerk.
To the Committee on Immigration and Naturalization, a clerk.
To the Committee on Columbian Exposition, a clerk.
To the Committee on the Election of President and Vice-President, a clerk.

Also, resolved, That the pay of the clerks to committees of the House of Representatives, which have been or may be hereafter authorized by the House, who are paid during the session only, shall begin from the time such clerks entered upon the discharge of their duties, which shall be ascertained and evidenced by the certificate of the chairmen of the several committees employing clerks for the session only

VIEWS OF THE MINORITY.

The Committee on Accounts, to whom was referred House resolutions authorizing and directing said committee to designate the committees to which clerks should be assigned, and to report thereon by resolution, have considered the matter at length. The members were unable to agree upon an unanimous report, and the minority beg leave to submit their views and to recommend for adoption the accompanying resolution:

We find that annual clerks with fixed salaries have been provided by law for the following committees: Ways and Means, Appropriations, Agriculture, Claims, Interstate and Foreign Commerce, District of Columbia, Elections, Foreign Affairs, Indian Affairs, Invalid Pensions, Irrigation of Arid Lands, Judiciary, Merchant Marine and Fisheries, Military Affairs, Naval Affairs, Post-Office and Post-Roads, Rivers and Harbors, War Claims, and Public Buildings and Grounds; and this committee can take no action as to any of them.

The remaining thirty-eight committees have not been provided with annual or session clerks, and their right to clerks under the statute is made to depend entirely upon their *necessity* for clerical assistance. Therefore, in making the assignment, the only question submitted to this committee for its determination is the one of *necessity*.

Wherever their is a *necessity* for a clerk it is the plain duty of the committee to make the assignment, and where the services of a clerk are not *necessary* it is equally plain that the assignment ought not to be made.

It would be manifestly unjust to require the chairman or any member to perform mere clerical services for the committee, and thereby deprive him of the time he should devote to the investigation of measures or to the business of his constituents; but to assign clerks where there is no necessity for it is an unwarranted expenditure and palpable waste of the public funds. It would only serve to supply private secretaries to such members as were favored with the chairmanship of committees doing little or no business, and to discriminate against many members whose labors are most onerous and exacting.

We have attempted to make this assignment in a spirit of liberality, and have only consulted the record made by these several committees in our efforts to ascertain where clerks were needed. We have accepted their statements and reports for our guidance, and refer to them briefly for the consideration of the House and at the same time invite attention to the costs.

Session clerks are by law paid $6 per day, or $180 per month. The two sessions of each Congress extend usually through ten months, making the total cost of each session clerk for this Congress $1,800.

From an inspection of the reports made we find that the Committee on Expenditures in the State Department and the Committee on Expenditures on Public Buildings have made no report to this House upon any subject within the last six years, and they have had clerks at a cost of $5,400 each, or $10,800.

The Committee on Expenditures in the Department of Agriculture has never made a report. It has had a clerk at a cost of $1,800.

The Committee on Expenditures in the War Department has *only two* reports in six years, at a cost for clerks of $5,400.

The Committee on Expenditures in the Navy Department has only made *one* report in six years, at an expense of $5,400.

The Committee on Expenditures in the Post-Office Department has made but *two* reports in six years; its clerks have cost $5,400.

The Committee on Expenditures in the Department of Justice has made five reports in six years, at a cost for clerks of $5,400.

The Committee on Militia has made six reports in six years at a cost of $5,400. (None in the Fifty-first Congress.)

The Select Committee on Alcoholic Liquor Traffic has made seven reports in six years, at a cost of $5,400.

The Committee on Revision of Laws has made seven reports in six years (only one in the Fifty-first Congress), at a cost of $5,400.

The Select Committee on Acoustics and Ventilation has made four reports in six years, two of them being theoretical discussions of the subject of "Air-ships," at a cost of $5,400.

The Committee on Mileage has some labors to perform at the beginning of the first session of Congress and for a few days has use for a clerk, but, as the labors of the committee are completed before any work is referred to the other committees, an annual clerk from any of the committees can easily render all necessary aid. This committee is informed that the chairman of the Committee on Mileage in the Fiftieth Congress refused to accept a clerk, declaring there was no necessity for one. If he is assigned it will add to the expenses $1,800.

The Committee on Mines and Mining has such limited jurisdiction that there is at present no appearance of needing a clerk. If in the future it becomes necessary proper clerical aid can be given.

In the Forty-ninth and Fiftieth and Fifty-first Congresses there was expended in salaries for clerks of the foregoing committees more than $75,000, which was (measured by the record they made) an extravagant and unauthorized expenditure.

If this Congress decides to adopt the same rule set by the Fifty-first Congress and approves the assignment of clerks to these committees, it will be an unnecessary increase of the expenses of Congress at least $27,000. The minority believes there ought to be inaugurated an era of retrenchment and reform, and a rigidly economical administration of affairs, and it is proper it should initiate the movement in matters pertaining directly to the House. It is an evidence of good faith and places the members in position to demand economy in the several departments.

For the reasons herein stated, the minority felt constrained to disagree to the report of the committee recommending the adoption of a resolution assigning clerks to the thirty-eight committees and to recommend as a substitute therefor the following:

Resolved, That a clerk be assigned to each of the following committees, viz:
Committee on Banking and Currency.
Committee on Coinage, Weights, and Measures.
Committee on Territories.
Committee on Railways and Canals.
Committee on Manufactures.
Committee on Pacific Railroads.
Committee on Levees and Improvements of the Mississippi River.
Committee on Education.
Committee on Labor.
Committee on Patents.

Committee on Pensions.
Committee on Private Land Claims.
Committee on Expenditures in the Treasury Department.
Committee on Accounts.
Committee on Library.
Committee on Enrolled Bills.
Committee on Reform in the Civil Service.
Committee on Election of the President and Vice-President and Representatives in Congress.
Committee on the Eleventh Census.
Committee on Immigration and Naturalization.
Committee on the Columbian Exposition.
Committee on Printing.

And that two assistant clerks be assigned to the Committee on Invalid Pensions and one assistant clerk to Committee on Military Affairs.

W. W. DICKERSON.
JOHN J. SEERLEY.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 2.

WESTERN JUDICIAL DISTRICT OF WISCONSIN.

JANUARY 19, 1892.—Ordered to be printed.

Mr. EZRA B. TAYLOR, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 504.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 504) in relation to the western judicial district of Wisconsin, having had the same under consideration, report the same with a recommendation that it be passed.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 3.

RIGHT OF WAY TO HUTCHISON AND SOUTHERN RAILROAD COMPANY.

JANUARY 19, 1892.—Ordered to be printed.

Mr. PEEL, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 28.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 28) to amend an act entitled "An act granting the right of way to the Hutchison and Southern Railroad Company to construct and operate a railroad, telegraph, and telephone line from the city of Anthony, in the State of Kansas, through the Indian Territory to some point in the county of Grayson, in the State of Texas, approved September 26, 1890," having had the same under consideration, beg leave to submit the following report:

This railroad company is a corporation created and organized under the laws of the State of Kansas.

This company's line is now built and being operated to the Kansas line, extending north some 86 miles. The original act, which was approved September 26, 1890, authorized the company to construct and operate their railroad, telegraph, and telephone lines from the city of Anthony, near the Kansas line, to Guthrie, in the Territory of Oklahoma, or near that place, which act contains the usual conditions and limitations as are found in the many acts of Congress granting such rights of way for many years past. This bill simply seeks to amend the original act authorizing said Hutchison and Southern Railroad Company to continue their lines in a southeasterly or southern direction to the southern boundary of said Indian Territory at or near a point north of Denison, Texas, upon like conditions, restrictions, and limitations as are provided in the original act, and extending the time for the completion of said railroad, telegraph, and telephone lines three years from the approval of the amendment to said act. Your committee submitted said bill, together with the original act, to the Hon. Secretary of the Interior, upon which he and the Hon. Commissioner of Indian Affairs reported as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 11, 1892.

SIR: I have the honor to acknowledge the receipt of your communication of 8th instant, inclosing copy of "An act granting the right of way to the Hutchison and Southern Railway Company to construct and operate a railroad, telegraph, and telephone line from the city of Anthony, in the State of Kansas, through the Indian Territory, to some point in the county of Grayson, in the State of Texas," approved September 26, 1890, and of S. 1023, and of H. R. 28 bills to amend said act.

In response thereto I transmit herewith copy of a communication of 9th instant, from the Commissioner of Indian Affairs, to whom the matter was referred.

The Commissioner states that he sees no objection to the amendment, and as the right of way act of March 3, 1875, will apply to that portion of the road within Oklahoma, I have not referred the matter to the Commissioner of the General Land Office, as suggested by the Commissioner of Indian Affairs.

I have the honor to be, very respectfully,

JOHN W. NOBLE,
Secretary.

The CHAIRMAN COMMITTEE ON INDIAN AFFAIRS,
House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 9, 1892.

SIR: I am in receipt, by Department reference for report, of a letter from Hon. S. W. Peel, chairman of Committee on Indian Affairs in the House of Representatives, inclosing a bill (H. R. 28) to amend an act entitled "An act granting the right of way to the Hutchison and Southern Railroad Company through the Indian Territory," in which he asks whether the amendment as drafted will give the company full power to extend its line of road to the southern boundary of the Indian Territory, with like power and privileges as original act, and also if it will give them three years from the passage of the amendment within which to complete the construction of the road.

Section 1 of the act of September 26, 1890, the original act (26 Stats., 485), provides:

Be it enacted by the Senate and House of Representatives in Congress assembled, That the Hutchison and Southern Railroad Company, a corporation created under and by virtue of the laws of the State of Kansas, be, and the same is hereby, invested and empowered with the right of locating, constructing, equipping, operating, using, and maintaining a railroad, telegraph, and telephone line from a point on the north line of the Indian Territory, south of the city of Anthony, in the State of Kansas, into the Indian Territory, to a connection with the Chicago, Kansas and Nebraska Railroad, at or near Pond Creek, in the Indian Territory, and thence to a connection with the Santa Fé Railroad at or near the city of Guthrie, or some point north of there within the distance of twenty miles, with the right to construct, use, and maintain such tracks, turn-outs, and sidings as said company may deem it to their interest to construct along and upon the right of way and depot grounds herein provided for."

The ninth section provides:

"That said railroad company shall build and complete its railway in said Territory within eighteen months after the passage of this act, or the rights herein granted shall be forfeited as to the portion not built; and it shall not be necessary in such a case for a forfeiture to be declared by judicial process or legislative enactment." * * *

The twelfth section reads:

"That Congress may at any time amend, add to, alter, or repeal this act, and the right of way herein and hereby granted shall not be assigned or transferred in any form whatever prior to the construction and completion of said road, except as to mortgage or other lien that may be given or secured thereon to aid in the construction thereof."

I have the honor to inform you that I am of the opinion that the proposed amendment would give the company full power to extend its road from its connection with the Santa Fé Railroad at or near Guthrie to the southern boundary of the Indian Territory, at or near a point north of the city of Denison, in the State of Texas, with like power and privileges as the original act, and that it would extend the time within which to complete the construction thereof three years from the approval of the same.

The original bill contains substantially the usual grants, conditions, and limitations which have been made a part of the recent legislation granting right of way for railways through the Indian and Oklahoma Territories, and, therefore, with regard to that part of the amendment extending the line of the road through Indian lands, I have the honor to state that, so far as this office is concerned, I see no objection to its enactment.

As a portion of the right of way provided for in the said amendment is within the public lands in the Territory of Oklahoma, it is respectfully suggested that the bill be referred to the General Land Office for report as to that portion of the proposed extension within its jurisdiction.

The papers are herewith returned.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

And, as stated in said letters, your committee see no reason why said railroad company should not be allowed to extend their lines, as stated in said bill, and recommend that said bill pass without amendment.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 4.

VACANCIES IN THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION.

JANUARY 20, 1892.—Ordered to be printed.

Mr. CUMMINGS, from the Committee on the Library, submitted the following

REPORT:

[To accompany S. Res. 18.]

The Committee on the Library of the House of Representatives, to whom was referred the joint resolution (S. Res. 18) to fill vacancies in the Board of Regents of the Smithsonian Institution, which resolution is as follows, to wit:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancies in the Board of Regents of the Smithsonian Institution, of the class other than members of Congress, shall be filled by the appointment of William Preston Johnston, of Louisiana, in place of Noah Porter, of Connecticut, resigned, and by the reappointment of Henry Coppée, of Pennsylvania, and M. C. Meigs, of Washington City, whose terms of office expire on December twenty-sixth, eighteen hundred and ninety-one—

respectfully report:

That since the passage of the foregoing resolution the M. C. Meigs therein mentioned has departed this life, and the committee respectfully report the following joint resolution as a substitute for that passed by the Senate (S. Res. 18), to wit:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancies in the Board of Regents of the Smithsonian Institution, of the class other than members of Congress, shall be filled by the appointment of William Preston Johnston, of Louisiana, in place of Noah Porter, of Connecticut, resigned, and the appointment of John B. Henderson, a citizen of the District of Columbia, in place of Montgomery C. Meigs, deceased, and by the appointment of Henry Coppée, of Pennsylvania, whose term of office expired on December twenty-sixth, eighteen hundred and ninety-one.

It will be seen that the substitute proposed by your committee differs from the original Senate resolution (S. Res. 18) only in that it inserts the name of John B. Henderson, of the District of Columbia, in place of that of M. C. Meigs, deceased.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 5.

APPROPRIATION FOR MILITARY ACADEMY.

JANUARY 25, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WHEELER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 4636.]

The Committee on Military Affairs, to whom were referred the estimates for appropriations recommended by the Secretary of War for the support of the Military Academy for the year ending June 30, 1893, respectfully report back the accompanying bill, and together with said bill submit the following report:

The total estimates recommended by the Secretary of War for the support of the Military Academy were as follows:

Estimates, pages 117 to 119, inclusive	$349,963.18
Estimates under head of public works, consisting of permanent improvements to buildings and other necessary works, etc	156,357.00
Additional recommendation or estimate for enlarging and increasing gas plant	48,000.00
Total estimates recommended by Secretary of War	554,320.18

The bill accompanying this report as reported by the committee appropriates $88,525 less than the recommendations.

The permanent improvements included in this bill consist almost entirely of an enlargement to the gas plant; improving and modernizing the plumbing and sewerage of the post; new sinks and bathrooms for cadets; furnishing new gymnasium and other improvements of a permanent character.

Most of the items for permanent improvements which the committee have included in the bill were reported by the Superintendent and other officers of the Academy and the Board of Visitors as absolutely essential to the health of the Corps of cadets and officers and soldiers stationed at the post.

The committee have omitted a large number of items which are recommended for the well-being of the establishment and the comfort of those who are stationed at the post. The omitted items are not considered by the committee as at all extravagant or unnecessary, but from the evidence laid before it the conclusion of the committee is that they are not at this time absolutely essential to the health and well-being of the Academy.

In their anxiety to reduce the amount of the bill as far as possible the committee have also reduced all salaries which exceed $1,000 per

annum, except salaries which are fixed by law. These reductions make an annual saving of an amount (at the rate of interest now paid by the Government) which is equal to the annual interest upon nearly $100,000.

The total amount of this bill is $465,795.18. Totals of appropriation acts for the Military Academy, 1890, 1891, 1892, are as follows:

1890	$902,766.69
1891	435,296.11
1892	402,064.64

The bill, as reported from the committee, is $114,247.30 less than the average amount of the appropriations for the Military Academy for the last three years.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 6.

JOHN R. F. TATNALL.

JANUARY 26, 1892.—Ordered to be printed.

Mr. CULBERSON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 1487.]

The Committee on the Judiciary, to whom was referred the bill H. R. 1487, report the same to the House and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 7.

GENERAL INCORPORATION LAW OF THE DISTRICT OF COLUMBIA.

JANUARY 27, 1892.—Ordered to be printed.

Mr. HEMPHILL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 2785.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 2785) to amend an act entitled "An act to amend the general incorporation law of the District of Columbia," approved May 17, 1882, submit the following report:

The committee having considered this bill (H. R. 2785), report it back to the House, recommending that it be amended by supplying section 3, which provides that Congress may at any time alter, amend, or repeal the act, and when so amended that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 8.

RAILROAD AND WAGON BRIDGE ACROSS THE MISSISSIPPI RIVER AT SOUTH ST. PAUL, MINN.

JANUARY 27, 1892.—Ordered to be printed.

Mr. LIND, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 217.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 217) to amend an act entitled "An act for the construction of a railroad and wagon bridge across the Mississippi River at South St. Paul, Minn.," approved April 26, 1890, submit the following report:

The only effect of this amendment is to extend the time for the commencement and completion of the bridge authorized by the act, and to change its location from points in section 10 to section 2 in the same town and range, less than 1 mile.

The United States Engineer Department reports that there is no objection to the passage of the bill.

Your committee therefore recommends that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 9.

ELEVENTH CENSUS.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SAYERS, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany H. R. 5399.]

The Committee on Appropriations report herewith and recommend the passage of a bill appropriating $200,000 for continuing the work of the Eleventh Census and $3,000 to pay the salary of the superintendent of free delivery in the office of the First Assistant Postmaster-General during the fiscal year 1892.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 10.

INQUIRY CONCERNING WORLD'S FAIR.

FEBRUARY 4, 1892.—Ordered to be printed.

Mr. SAYERS, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany Mis. Doc. 68.]

The Committee on Appropriations, to whom was referred the resolution asking for information touching the management of the World's Fair and expenditures therefor, having considered the same, report herewith and recommend the adoption of the accompanying substitute therefor:

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES,
January 5, 1892.

Mr. HENDERSON, of Iowa, submitted the following; which was referred to the Committee on Appropriations:

Whereas Congress, by act approved April 25, 1890, provided for holding an International Exposition of the progress made in civilization, at the city of Chicago, in 1893, to commemorate the four hundredth anniversary of the discovery of America by Columbus; and

Whereas the act designating Chicago as the site of said Exposition required the people of that city to provide a suitable site and $10,000,000 to complete the appropriation for holding said Exposition; and

Whereas in response to the requirements of said act, the citizens of Chicago have furnished a site and provided over $10,000,000, a sum deemed adequate by Congress; and

Whereas fifty-nine nations have accepted the invitation of the Government of the United States to be present and participate in said Exposition, and fifty States and Territories of the Federal Union have indicated their intention to participate, and have expressed their desire that said exhibition shall in all things be commensurate with the importance of the event to be celebrated, and be worthy of the wealth and character of the United States; and

Whereas the Government has already appropriated the sum of $1,088,000 and estimates are now before the Committee on Appropriations asking for further appropriations;

Therefore, in order that Congress may be fully advised as to the scope and plan adopted by those having jurisdiction and management of said Exposition, and also concerning the progress made, the amount of money expended, the manner of such expenditures, and the necessity therefor, together with such further information concerning the amount available for said work, and the sum that may become necessary to complete the same and prepare the Exposition for opening its gates to visitors.

Be it resolved, That an inquiry be, and is hereby, ordered to ascertain whether those obligated and undertaking to do so have justly and properly complied with the requirements of the said act of Congress approved April 25, 1890, and the subsequent appropriations made for said Exposition; whether the money provided has been judiciously expended; whether the number of employés and appointees to carry out and into effect the laws is excessive and their compensation reasonable or otherwise; and to ascertain and report the salary or compensation paid to each officer and employé; from what States the several appointments have been made, and, generally, whether in the

care and conduct of the Exposition proper management has been had; and that a full report of those in charge of the expenditure of money be made of all such expenditures; and that copies of the monthly pay rolls of all officers and appointees be transmitted to Congress for its full information; and that the report based upon said inquiry may be made at any time to Congress, but at the earliest day possible consistent with the necessities of the inquiries involved in this resolution.

Attest: JAMES KERR, *Clerk.*

SUBSTITUTE PROPOSED BY THE COMMITTEE ON APPROPRIATIONS.

RESOLUTION OF INQUIRY CONCERNING THE MANAGEMENT OF THE WORLD'S FAIR AND EXPENDITURES THEREFOR.

Whereas Congress by act approved April 25, 1890, provided for holding an International Exposition of the progress made in civilization at the city of Chicago in 1893, to commemorate the four hundredth anniversary of the discovery of America by Columbus; and

Whereas the act designating Chicago as the site of said Exposition required the people of that city to provide a suitable site and ten millions of dollars to complete the appropriation for holding said Exposition; and

Whereas in response to the requirements of said act the citizens of Chicago have furnished a site and provided over ten millions of dollars, a sum deemed adequate by Congress; and

Whereas fifty-nine nations have accepted the invitation of the Government of the United States to be present and participate in said Exposition, and fifty States and Territories of the Federal Union have indicated their intention to participate and have expressed their desire that said exhibition shall in all things be commensurate with the importance of the event to be celebrated, and be worthy of the wealth and character of the United States; and

Whereas the Government has absolutely appropriated the sum of $1,088,000, and estimates are now before the Committee on Appropriations asking for further appropriations; therefore, in order that Congress may be fully advised as to the scope and plan adopted by those having jurisdiction and management of said Exposition, and also concerning the progress made, the amount of money expended, the manner of such expenditures, and the necessity therefor, together with such further information concerning the amount available for said work, and the sum that may become necessary to complete the same, and prepare the Exposition for opening its gates to visitors.

Be it resolved, That the Committee on Appropriations is hereby ordered to inquire and report to this House whether those obligated and undertaking, and now engaged to do so, have justly and properly complied with the requirements of the said act of Congress approved April 25, 1890, and whether all expenditures of whatever character for said Exposition have been judiciously made; whether the number of employés and appointees to carry out and into effect the laws is excessive and their compensation reasonable or otherwise, and to ascertain and report the salary or compensation paid to each officer and employé, from what States the several appointments have been made, and generally whether, in the care and conduct of said Exposition, proper management has been had; that they obtain a full report, of those in charge of the expenditure of money, of all such expenditures, together with copies of the monthly pay rolls of all officers and appointees, and that the report of the committee, based upon said inquiry, may be made at any time to Congress, but at the earliest day possible consistent with the necessities of the inquiries involved in this resolution; and that the expenses of the committee or of any subcommittee it may designate to prosecute these inquiries and examination shall be paid out of the contingent fund of the House, and the chairman of said committee or of such subcommittee, if one be designated, is authorized to draw for the same on the Clerk of the House in sums not to exceed $500 at any one time.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 11.

CLAIMS FOR CHURCH AND SCHOOL BUILDINGS.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 639.]

The Committee on War Claims, to whom was referred the bill (H. R. 639) to authorize the Secretary of War to cause to be investigated and to provide for the payment of all claims for the use and occupation of church and school buildings and grounds for Government purposes during the late war, submit the following report:

The facts out of which this bill for relief arises is fully set forth in House report from the Committee on War Claims, first session, Fifty-first Congress, hereto annexed and made a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 111, Fifty-first Congress, first session.]

Your committee have considered House bill No. 5169, and recommend the adoption of the accompanying substitute. The substitute provides that the Secretary of War shall cause to be investigated and provide for the payment of all claims for the use and occupation of church and school buildings and grounds for Government purposes by the United States military authorities during the late war, and all claims for damages resulting from the appropriation to Government use of any of the furnishings or materials in said class of buildings.

The bill provides that the Quartermaster-General shall proceed to investigate claims of the character mentioned in the same manner, and they shall take the same course as claims arising under what is known as the Fourth of July claims act; that is, he shall report the amount due in each case, and certify the same to the Third Auditor of the Treasury for payment, who will report them to Congress for appropriations. The testimony now on file may be used as evidence in the consideration of these claims. This bill is based on numerous precedents; among others, attention is invited to the following: The first report of the Commissioners of Claims report that when buildings are torn down, if the materials are taken to erect other buildings for the use of the Army, such materials thereby become supplies, and their value as materials for the purpose for which they are used is paid to the owners. In 1871 an act was passed to pay the Kentucky University for buildings destroyed. The buildings were taken by military authority, and while in the hands of the authorities of the Government were accidentally destroyed. That was a Senate bill, and was approved by President Grant.

The Madison Female Institute, of Richmond, Ky., was paid upon an allowance by the Quartermaster-General, for the use and occupation of the buildings and grounds for Government purposes. The Smithland (Ky.) Baptist Church; the St. Joseph Commercial College, St. Joseph, Mo., the Protestant Episcopal Seminary, of Alexandria, Va., and St. Peter's and St. Paul's Catholic Churches, at Chattanooga, were paid for use and occupation, and for materials and furnishings used by the army for

Government purposes, by various acts passed during the sessions of the Fiftieth Congress.

It has been wisely held that a corporate body, such as a school or college or church or a body representing the educational and religious interests of a community, could not be held to be disloyal, and all the legislation cited proceeds upon that idea. As there are a number of these claims pending before Congress the committee are of opinion that justice to the Government and to the claimants is better assured in providing, as this bill does, a tribunal where all claims of the same character may be legally investigated and judicially determined, and they therefore recommend the adoption of the accompanying substitute for H. R. bill 5169, and that the bill as amended do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 12.

LOUISA Q. LOVELL AND OTHERS.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1086.]

The Committee on War Claims, to whom was referred the bill (H. R. 1086) for the relief of Louisa Q. Lovell and others, submit the following report:

The history of the claim is set forth in House report from the Committee on War Claims, first session, Fifty-first Congress, which is appended as a part of this report.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 790, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1341) for the relief of Louisa Q. Lovell and others, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto appended for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 2395, Fiftieth Congress, first session.]

This is a claim of the heirs of Gen. John A. Quitman for rent of the plantations belonging to them situated in Warren County, Miss., known as "Pahugra" plantation and Lake Place for the year 1865.

The evidence shows that Louisa Q. Lovell, Antonia Q. Lovell, Rosalia Q. Duncan, F. Q. Ogden, and Eliza T. Ruth were the owners of said plantations on and before January 1, 1865, and had leased them to Alexander Warwick for the year 1865.

That in the month of January, 1865, the United States Government took possession of said premises and used the same for the purposes of the freedmen under its charge and kept and used them until March, 1866, and cut from the premises and used 1,000 cords of wood. Said places were rented to Alex. Warwick for the year 1864.

The claimants allege they were always loyal to the United States Government.

They filed their petition in the Court of Claims November 23, 1871, and it was dismissed for want of jurisdiction in 1875.

The claimants desire to have their cause tried before the Court of Claims, and the committee are of opinon they ought to have that privilege, and report the bill back to the House with the recommendation that it pass.

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testified in the case, and they are men of such character as to preclude the idea of combinations to defraud the Government, or that they would commit perjury, and their loyalty is unquestioned.

I desire that you personally examine the records on file in this case, and I request that you will cause the same to be reopened for a rehearing, and send the papers to your duly accredited agent for further testimony, if necessary, to be taken in the case. From the examination which I made of the papers it appears that your predecessor disallowed the claim because it had been previously considered by the Commissioners of Claims. From their findings it appears that they held the claimant responsible for the failure of the United States commissioner, their representative, to adopt the proper form of questions in interrogating the claimant. I am satisfied that this is a just claim and should be allowed.

Respectfully, yours,

B. A. ENLOE, M. C.,
Eighth District, Tennnessee.

Gen. S. B. HOLABIRD,
Quartermaster-General.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., February 27, 1888.

SIR: Referring to your communication of the 23d instant relative to a claim of Samuel Howard, of Henderson County, Tenn., for a horse, mules, etc., stated at $955, you are respectfully informed—

That it appears from the records of this office that when the claim was taken up for consideration by my predecessor it was found that a claim embracing the items charged for in the one now in question had been filed before the Commissioners of Claims (commonly known as the Southern Claims Commissioners), and was by them considered and disallowed for lack of proof of loyalty and taking and use of stores.

For those reasons the claim was dismissed from further consideration in this office by my predecessor.

It is only just to state that there has been filed testimony which was not before the Commissioners of Claims, and which it is probable might have produced a different conclusion had it been in possession of that tribunal at the time of its decision.

It is further to be remarked that the papers in the case filed in this office were transmitted to the honorable the Secretary of War for the House Committee on War Claims, on the 30th of January last.

Your letter of the 23d instant is herewith returned in accordance with your request.

Very respectfully, your obedient servant,

S. B. HOLABIRD,
Quartermaster-General, U. S. Army.

Hon. B. A. ENLOE,
House of Representatives.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 14.

AQUILLA JONES.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MANSUR, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 914.]

The Committee on Claims, to whom was referred the bill (H. R. 914) for the relief of Aquilla Jones, late postmaster at Indianapolis, Ind., have examined the same, and report as follows:

This bill was reported favorably to the Senate in the Fifty-first Congress, first session (see Report No. 242), also in the House of Representatives, second session (see Report No. 3419), and is recommended by the present postmaster at Indianapolis, the successor of Mr. Jones, and was also recommended by the Hon. Don M. Dickinson, late Postmaster-General.

The letter of Mr. Dickinson contains a statement of the essential facts and the reasons upon which the relief asked for is recommended by him to be granted, and inasmuch as your committee agree with him in his views it is herein set forth as a part of this report:

POST-OFFICE DEPARTMENT,
Washington, D. C., February 2, 1889.

SIR: I have the honor to transmit herewith a claim made by Aquilla Jones, postmaster at Indianapolis, Ind., for a credit of $2,438 on his money-order account, being the amount of money-order funds stolen from said office December 31, 1888. I also transmit copy of a report made by two inspectors of this Department by whom the matter was investigated, and of affidavits in support of the claim.

From the proofs in the case it appears that at about noon on the date above mentioned Mr. A. H. Johnson, superintendent of the money-order division of the Indianapolis post-office, while engaged in the performance of his regular duties, was informed by a stranger that a gentleman in a buggy was outside and wished to see him. On looking out of a window into the street Mr. Johnson saw a man in a buggy near the curbing of the sidewalk, who stated that he wished to speak to him on private business. Mr. Johnson informed the man that he was alone in the office and could not leave it, but on being told by the stranger that he was lame and could not walk, and that a moment would suffice, left his room, passed through the office of the cashier into the lobby and thence into the street, where he discovered that he had been summoned on a false pretext and immediately ran back to his room. He swears that it was not more than three minutes from the time his attention was first attracted by the stranger to the time he returned to his room.

Within a few minutes after his return, Mr. Johnson discovered the loss of the money, which he immediately made known to the police authorities and to the United States marshal.

He states that he left the office of the cashier by a door on which there was a spring lock which fastened the door when shut, and that as he passed through this door he supposed he had closed and fastened it. The evidence in the case, and the subsequent events, indicate that he was mistaken in his supposition, as the thief who stole the money undoubtedly passed through this door.

Two inspectors of this Department were on the ground the morning after the robbery, and made a thorough investigation of the circumstances. They express the belief that the robbery occurred as represented by Mr. Johnson, and that it was committed by two well-known "sneak thieves," who are still at large. They also state that the character of Mr. Johnson is above suspicion, and there is nothing to indicate or suggest that he was in collusion with the thieves. They are, however, of the opinion that on this occasion he was guilty of gross negligence in leaving his office alone on the call of a stranger.

I do not agree with the inspectors in their conclusions on this point. It was, perhaps, imprudent for Mr. Johnson to leave his room unguarded, with a large amount of money exposed; but it is to be remembered that the room could be entered from the street only through the room of the cashier, and Mr. Johnson supposed that he had guarded against any entrance from that direction. He left his office in obedience to a humane impulse; to oblige one whom he supposed to be a cripple, unable to walk; he was gone, as he states, not more than three minutes, and during this time there were several persons in the lobby, within sight of his window, and it was not to be supposed that a robbery would be committed under such circumstances. Mr. Johnson did what any person who desired to be accommodating and obliging would have done in a like case, and I do not regard his conduct as culpably negligent.

Admitting, however, that it was so, should the postmaster suffer from the effects of such negligence? He appears to have exercised due care in the selection of his subordinates. The inspectors say:

"Mr. Johnson has an excellent record as superintendent of that division. He was always careful. It was a surprise to his friends to learn that he had been taken in by those adroit thieves."

If his conduct on this particular occasion was such as to show negligence, it was negligence of which there had been no previous indication, and which the postmaster had no cause to anticipate. The character and reputation of Mr. Johnson were such as to indicate that his selection for the position which he held, an important and responsible one, was an act of prudence, and displayed good judgment. It is impossible for a postmaster to personally supervise each act of each of his subordinates. He can only give general direction to the affairs of his office, leaving the details of the business to the persons selected for that purpose; and, having exercised proper care and prudence in such selection, he ought not to be held accountable for a loss which he has used his best efforts to prevent.

Believing, therefore, that the loss in this instance did not result from any fault or negligence on the part of the postmaster, I recommended the passage of a bill authorizing the Postmaster-General to credit him with the amount lost.

Very respectfully,

DON M. DICKINSON,
Postmaster-General.

Hon. JOHN G. CARLISLE,
Speaker House of Representatives.

Upon the foregoing statement and the reasons therein given, and after a careful examination of other affidavits and papers filed in the case, we have come to the conclusion that the relief ought to be granted, and we therefore recommend the passage of the bill.

[House Report No. 3419, Fifty-first Congress, second session.]

The Committee on Claims, to whom was referred the bill (S. 393) for the relief of Aquilla Jones, late postmaster at Indianapolis, Ind., have had the same under consideration, and being satisfied with the report made on said act by the Committee on Post-Offices and Post-Roads in the Senate (see Report No. 242, Fifty-first Congress, first session), do indorse and accept the same as their report, which is as follows:

[Senate Report No. 242, Fifty-first Congress, first session.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 393) for the relief of Aquilla Jones, late postmaster at Indianapolis, Ind., have examined the same and report:

The relief prayed for in this bill is recommended by the present postmaster at In-

dianapolis, the successor of Mr. Jones, and was also recommended by the Hon. Don M. Dickinson, late Postmaster-General.

The letter of Mr. Dickinson contains a statement of the facts and the reasons upon which the application for relief is grounded, and embodies the views of the committee upon the subject. It is herein, therefore, set forth as part of this report.

POST-OFFICE DEPARTMENT,
Washington, D. C., February 2, 1889.

SIR: I have the honor to transmit herewith a claim made by Aquilla Jones, postmaster at Indianapolis, Ind., for a credit of $2,438 on his money-order account, being the amount of money-order funds stolen from said office December 31, 1888. I also transmit copy of a report made by two inspectors of this Department, by whom the matter was investigated, and of affidavits in support of the claim.

From the proofs in the case it appears that at about noon on the date above mentioned Mr. A. H. Johnson, superintendent of the money-order division of the Indianapolis post-office, while engaged in the performance of his regular duties, was informed by a stranger that a gentleman in a buggy was outside and wished to see him. On looking out of a window into the street Mr. Johnson saw a man in a buggy near the curbing of the sidewalk, who stated that he wished to speak to him on private business. Mr. Johnson informed the man that he was alone in the office and could not leave it, but on being told by the stranger that he was lame and could not walk, and that a moment would suffice, left his room, passed through the office of the cashier into the lobby, and thence into the street, where he discovered that he had been summoned on a false pretext and immediately ran back to his room. He swears that it was not more than three minutes from the time his attention was first attracted by the stranger to the time he returned to his room.

Within a few minutes after his return, Mr. Johnson discovered the loss of the money, which he immediately made known to the police authorities and to the United States marshal.

He states that he left the office of the cashier by a door on which their was a spring lock, which fastened the door when shut, and that as he passed through this door he supposed he had closed and fastened it. The evidence in the case, and the subsequent events, indicate that he was mistaken in the supposition, as the thief who stole the money undoubtedly passed through this door.

Two inspectors of this Department were on the ground the morning after the robbery and made a thorough investigation of the circumstances. They express the belief that the robbery occurred as represented by Mr. Johnson, and that it was committed by two well-known "sneak thieves," who are still at large. They also state that the character of Mr. Johnson is above suspicion, and there is nothing to indicate or suggest that he was in collusion with the thieves. They are, however, of the opinion that on this occasion he was guilty of gross negligence in leaving his office alone on the call of a stranger.

I do not agree with the inspectors in their conclusions on this point. It was, perhaps, imprudent for Mr. Johnson to leave his room unguarded, with a large amount of money exposed; but it is to be remembered that the room could be entered from the street only through the room of the cashier, and Mr. Johnson supposed he had guarded against any entrance from that direction. He left his office in obedience to a humane impulse; to obligo one whom he supposed to be a cripple, unable to walk; he was gone, as he states, not more than three minutes, and during this time there were several persons in the lobby, within sight of his window, and it was not to be supposed that a robbery would be committed under such circumstances. Mr. Johnson did what any person who desired to be accommodating and obliging would have done in a like case, and I do not regard his conduct as culpably negligent.

Admitting, however, that it was so, should the postmaster suffer from the effects of such negligence? He appears to have exercised due care in the selection of his subordinates. The inspectors say:

"Mr. Johnson has an excellent record as superintendent of that division. He was always careful. It was a surprise to his friends to learn that he had been taken in bo those adroit thieves."

If his conduct on this particular occasion was such as to show negligence, it was negligence of which there had been no previous indication, and which the postmaster had no cause to anticipate. The character and reputation of Mr. Johnson were such as to indicate that his selection for the position which he held, an important and responsible one, was an act of prudence, and displayed good judgment. It is impossible for a postmaster to personally supervise each act of his subordinates. He can only give general direction to the affairs of his office, leaving the details of the business to the persons selected for that purpose; and, having exercised proper care and prudence in such selection, he ought not to be held accountable for a loss which he has used his best efforts to prevent.

Believing, therefore, that the loss in this instance did not result from any fault or negligence on the part of the postmaster, I recommend the passage of a bill authorizing the Postmaster-General to credit him with the amount lost.

Very respectfully,

DON M. DICKINSON,
Postmaster-General.

Hon. JOHN G. CARLISLE,
Speaker House of Representatives.

Upon the foregoing statement and the reasons therein given, and after a careful examination of other affidavits and papers filed in the case, we have come to the conclusion that the relief ought to be granted, and we therefore recommend the passage of the bill.

[House Ex. Doc. No. 121, Fiftieth Congress, second session.

Letter from the Postmaster-General, transmitting papers in the claim of Aquilla Jones on account of the larceny of funds from the post-office at Indianapolis, Ind., and recommending the passage of a bill authorizing the Postmaster-General to credit the postmaster with the amount lost.

POST-OFFICE DEPARTMENT,
Washington, D. C., February 2, 1889.

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was not to be supposed that a robbery would be committed under such circumstances. Mr. Johnson did what any person who desired to be accommodating and obliging would have done in a like case; and I do not regard his conduct as culpably negligent.

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Very respectfully,

DON M. DICKINSON,
Postmaster-General.

Hon. JOHN G. CARLISLE,
Speaker House Representatives.

EXHIBIT A.

STATE OF INDIANA,
County of Marion:

I, Alfred H. Johnson, being first duly sworn, on oath say:

I reside at 123 West Michigan street, Indianapolis, Indiana; I am superintendent of the money-order division of the Indianapolis post-office, and have been since the 15th of August. 1885; my assistants are C. W. Byfield, O. A. Keely, and Miss Clara M. Quigg; Mr. Keely leaves for dinner between 11 a. m. and 12 o'clock, and is due to return at 12:45 p. m.; Mr. Byfield leaves at noon and returns shortly after 1 o'clock p. m.; Miss Quigg leaves generally about 12:30 p. m.—earlier than that if the condition of the work permits; my hour for leaving the office for dinner is upon the return of Mr. Keely at 12:45, if the condition of the work warrants my absence; this arrangement leaves me alone in the office from 12 o'clock, or 12:30 to 12:45; and the arrangement as made is owing to the fact that all the clerks mentioned live in the extreme northern part of the city, at a long distance from the post-office. On Monday, the 31st day of December, 1888, I had been requested to sing at a funeral to be held at 2 o'clock p. m., and requested Mr. Keely, during the morning, to return a little earlier than usual, if possible, and he reached the office about 11:15.

The money-order office is situated on the north side of the post-office building, fronting north on Market street, between the stamp department on the west, from which it is separated by a wire screen, in which is a door, and the cashier's office on the east, from which it is separated by a board partition about 7 feet high, in which there is a door; and access to the money-order department can only be had from the lobby by entrance through one or the other of these other departments. The cashier's department is connected with the office of the postmaster by a heavy wooden door, which is kept locked all the time; and each of the doors opening into the lobby from the stamp department and the cashier's office is provided with a snap lock, and a spring to throw it shut; the door from the lobby to the stamp department is always locked with a spring lock; the cashier has no window for the transaction of business over his counter, and therefore when he is on duty at his desk, except when receiving or paying money and while one or more of the employés at the money-order department are on duty, the door sometimes stands unlocked, and occasionally open; but in such cases the door between the cashier's office and the money-order dep artment is kept closed. Always when the cashier is making up his pay-roll or opening the quarterly remittances of postmasters the spring lock on his door leading to the lobby is sprung and the door kept closed and locked and the curtain down.

On Monday, the 31st of December, 1888, Mr. Keely left at the usual hour, Mr. Byfield started a little before 12 o'clock, taking to bank the $1,400 surplus money-order funds which was to be remitted that day on account of the balance on hand at the close of business on Saturday, the 29th of December, and Miss Quigg left just at noon, I think, and I was left alone in the office. The counter over which I transact business is on the south side of the money-order department. My case containing advices of unpaid orders stands upon the right of the counter against the division between this office and the stamp department; at its left is the opening through which the money-order business is transacted; at the left of the window are my blank domestic and international money-orders and postal-notes and the dating stamp, etc.

The moneys handled by me during the day are kept in two separate accounts; all the moneys received for the issue of orders being placed at the left of the window and all the moneys received for remittances or drafts being placed upon the counter, in front of the case of advices, or in the cash-drawer under the counter at the right of the window. When the aggregate money received in the morning has been counted, the gold and silver and small bills are placed in the cash-drawer; the larger bills are counted in one hundred-dollar packages, which are crossed and placed on the counter for use as required during the day. If a large number of small bills are received they are counted into packages of $50 and used in bulk, silver being preferred for change and small sums.

Monday is one of the busiest days of the week always, and this day at this season of the year was unusually so; and at noon my work was behindhand as compared with the ordinary run of days. Shortly after noon Mr. W. T. Ballard, for the Indiana Farmer Company, presented a list of orders and postal notes, most of them for small amounts, but in the aggregate amounting to between three and four hundred dollars, for payment, and leaving them for me to check up, stepped across the lobby to the window of the register department, which is about 20 feet east of the money-order window and on the south side of the lobby. Directly opposite the money-order window at the counter on the inside, is a large exterior window on the Market street side of the post-office; midway between the two is my desk at which I sit facing the east; just after placing Mr. Ballard's list on my desk, after I had begun checking the same, I was addressed from the lobby at the counter window as follows: "Mr. Johnson, there is a gentleman in a buggy at the window who wishes to speak to you."

As my name was spoken I glanced to the right at the speaker; as the latter part of the sentence was uttered I looked to the left, and saw the party seated in a buggy at the curbing just opposite the window on Market street. I rose and stepped to the window and raised it partly, but the wind disturbed the papers on my desk and I closed it, and placed weights on the papers and again raised the window and asked what he wished, not recognizing him. He said, "I wish to speak to you a moment on private business." I replied that I was alone in the office and could not leave it, and if he wished to speak to me he would have to come inside.

He replied, "I have a lame leg (or a game leg), and but for that fact would not have troubled you; I will detain you only a moment, and will be greatly obliged if you will come out."

Four or five weeks ago I was elected secretary of the Merchants' Saving and Loan Association, the dues of which are payable on Monday night, and my thought was that this was some one who desired to avoid coming down at night by paying his dues to me at that time, and as an accommodation to him I closed the window, hastily seized my coat, and passed back through the cashier's office and through his door into the lobby for the purpose of asking Mr. Ballard to excuse me a moment; otherwise I should have taken the nearer way, through the stamp department. The cashier had been very busy all the morning; and his door had been locked and was closed when I went out; I pulled it after me, and supposed that it was closed and locked after me; I stopped long enough to ask Mr. Ballard to excuse me for a moment, and noticed two or three parties waiting to be served at the registry window after Mr. Ballard was through; I also noticed three or four parties at the counter and in the lobby, but no one who seemed to be ready to be waited upon in my department.

It is a common thing for parties to come into the inner lobby to address letters or to write memoranda, and I thought nothing of these persons being present at that time. I then very hurriedly passed through the lobby into the outer lobby, and so out of the Market street entrance of the post-office and ran from the steps to the buggy. As I approached, the stranger leaned over the side of the buggy, extended his hand, and inquired if I was Mr. Alfred Johnson. I said, "That is my name, sir." He said, "I understand you have some lots on Arsenal avenue for sale."

I immediately realized that I had no business dealings with him, and replied as rapidly as I could say it, "No, sir; I have no lots there; but there is another A. H. Johnson in the city, on south Pennsylvania street, I think; you can get his address from the directory; he is probably the man you want to see." He replied, "I am

sorry to have made you the trouble; I will drive right around and see him." And gathering up the lines, started west and around the corner on to Pennsylvania street, and I ran all the way back to the outer doors of the lobby [it was raining just a little and I was without an umberella] and hurried back to my desk.

Just after taking my seat I noticed Mr. Keely removing his coat and at once spoke to him, asking him to take the Ballard list and find the advices of the money-orders, while I turned my attention to the other unfinished work on my desk. Before I had hardly commenced it I was called to the counter window to wait upon some one who wished a money-order issued. As I took the money paid for the order to place it at the left of the window with the balance which had been received during the morning I missed the paper money. I said, "Keely have you transferred any of this money?" He said, "No, sir." I said, "Ben, have you had any money from here?" He said, "No." Mr. Benjamin Jones, the cashier, had followed us almost immediately into the office and was in his department and the door between us was open.

I then turned to the right and saw the $100 packages of money on the counter at the right of the window were also gone. It instantly flashed through my mind that I had been tricked out of the office and the sneak made while I was out. I said, "Then some one has gone through the office; Keely, you issue this order and take charge of things until I return." I then took my overcoat, and in the lobby spoke to Mr. Ballard, who was still at the registry window; told him that the office had been robbed and that he would have to wait for a settlement of his list until later in the afternoon. I am positive that it was notmore than three minutes from the time the first word was addressed to me asking me out until I discovered the loss of the money. I ran all the way to police headquarters, which are nearly four squares from the post-office, and returned from there with the officer in charge to the mayor's court, where Capt. Colbert was called out and came with me.

On the first corner after leaving the mayor's court we met Mr. Travis, superintendent of the police force, and I again told what had been done, and Mr. Travis returned to police headquarters, and Capt. Colbert and I came back to the post-office, passing the livery stable of Mr. Patterson on the way and stopping to see if any such rig as was used by the party on the outside had been obtained there, and also ordering one hitched up at once for the officers to commence the search with. As soon as the officers left the post-office I telephoned for a messenger from the Western Union Telegraph office and wired the news of the robbery to the Superintendent of the Money-Order System at Washington. I then consulted the United States marshal, and after making arrangements and securing necessary funds for the continuation of business during this afternoon, I spent the rest of the day in preparing telegrams, notices, and descriptions of the men, etc.

After the close of business for the day an examination of the cash on the two sides of the window showed a shortage of $288 of the funds received for money-orders issued during the day, and a shortage of $2,150 in the funds on the right of the window, indicating that the amount of funds received in the morning from other postmasters had been taken; the total shortage being $2,438, as wired that night to the Superintendent of the Money-Order System.

Mr. Ben. Jones, the cashier, had told me that morning that he should not go home for dinner, and I supposed he might be in at any moment; I was expecting Mr. Keely back early and I went out supposing that I left everything securely locked, and thinking more that my absence might cause delay or inconvenience to some one who might want to be waited upon before I returned than that there was any risk of loss by theft with the doors locked and the lobby occupied as it was.

Mr. Abbett, the stamp clerk at the stamp window, was very busy and his back was squarely towards this department. I noticed as I passed through the outer lobby, both going and returning, that there were several persons in front of this window. I attach hereto a diagram of this part of the office, marked Exhibit A, which will perhaps help to explain the situation.

I have repeatedly been spoken to by parties on the outside, both on the sidewalk and in carriages, and have raised the window to speak with them; but I have never before been outside the office building or out of sight and immediate reach of my department, unless one of the other clerks was on duty.

And further affiant saith not.

ALFRED H. JOHNSON.

Subscribed and sworn to before me, a notary public within and for the county and State aforesaid, this 4th day of January, 1889.
[SEAL.]

HAROLD TAYLOR,
Notary Public.

EXHIBIT A.

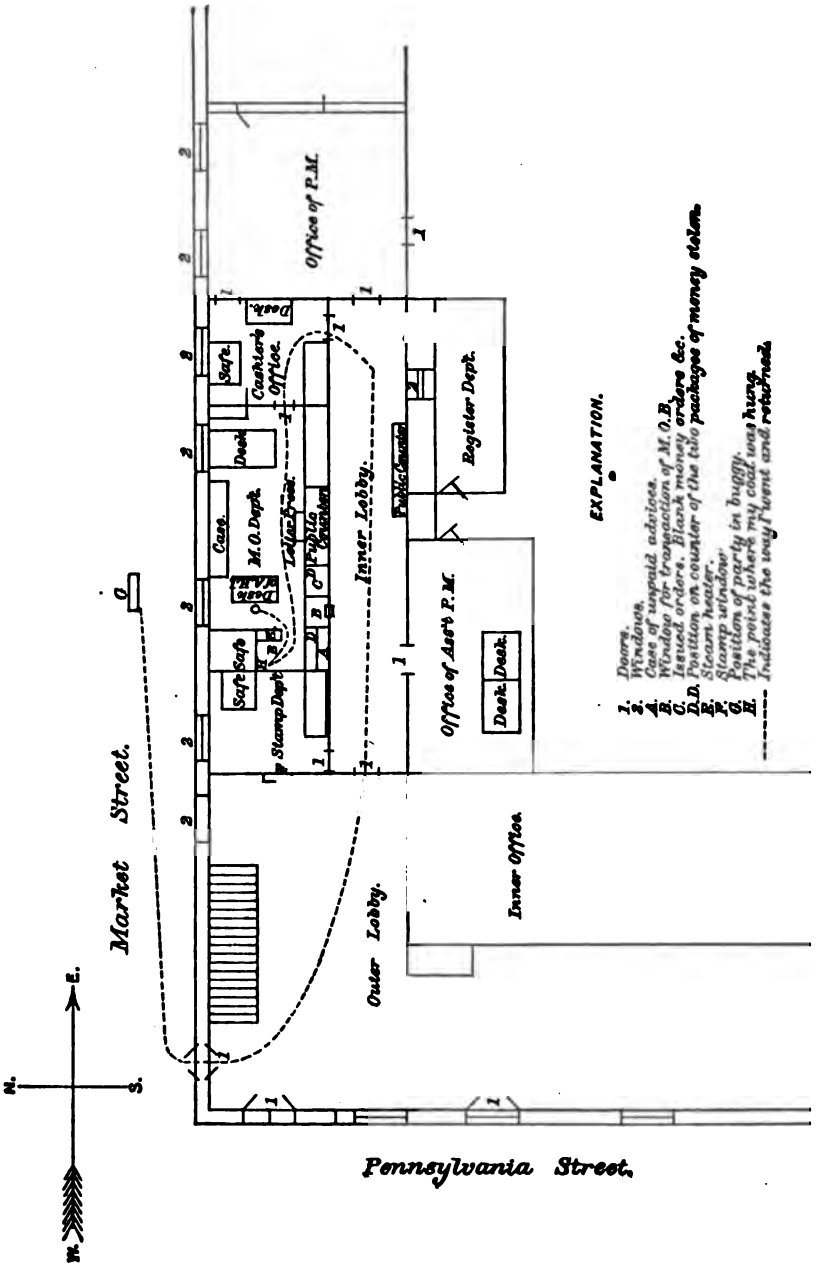
Market Street.
Pennsylvania Street.
N.
S.
E.
W.
Office of P.M.
Safe
Cashiers Office.
Desk
Case.
M.O. Dept.
Safe Safe
Stamp Dept.
Inner Lobby.
Register Dept.
Office of Ass't P.M.
Desk Desk
Inner Office.
Outer Lobby.
EXPLANATION.
1. Doors.
2. Windows.
3. Case of unpaid advices.
4. Window for transaction of M.O.B.
5. Issued orders. Blank money orders &c.
C. Position on counter of the two packages of money stolen.
D.D. Steam heater.
E. Stamp window.
F. Position of party in buggy.
G. The point where my coat was hung.
H. Indicates the way I went and returned.

EXHIBIT B.

INDIANAPOLIS POST-OFFICE,
Indianapolis, Ind., January 2, 1889.

Messrs. DARBELLA AND STEWART,
Post-Office Inspectors:

GENTLEMEN: As requested, will state that on the morning of the robbery of this office, December 31, 1888, I was at my desk all the time and only left it to go the Indianapolis National Bank to get check cashed to pay postal clerks, about the noon hour; was gone possibly ten minutes, and on my return Mr. Johnson, chief clerk of money-order, asked me if I had taken any money from his desk. I said no. Then he informed me he had been robbed and left immediately to inform police authorities, while I went to U. S. marshal and secret-service rooms, but found them locked, and on my return to my office found police and gave them all the information in my power. Telegrams were sent to chief inspector at Chicago and authorities at Washington were notified; everything was done to detect the guilty parties that was in our power.

On Mr. Johnson's return from the search and to the police station I asked him how much was the loss. He said he could not state exactly, but thought between $2,000 or $3,000. I will state that it being a very busy day for me I had told Mr. Johnson during the morning that I did not intend going home to dinner, and when I did leave to get check cashed the door leading from my desk into the lobby had the catch sprung, as it had been all morning, and could only be unfastened on the inside or with a key from the lobby.

We have and are doing all we can to have parties brought to justice.

Respectfully,

B. F. JONES,
Cashier.

Subscribed and sworn to this the 3d day of January, 1889.

R. F STUART,
P. O. Inspector.

STATE OF INDIANA,
County of Marion, ss.

WILLIAM P. BALLARD, being duly sworn, says that he is a resident and citizen of the city of Indianapolis, Marion County, State of Indiana, and that he was a resident of said city and State on the 31st day of December, 1888, and for a long time prior thereto; that he was in the post-office building of said city on said 31st day of December, 1888, at the time of the theft of the money-order funds from the money-order department of said post-office; the said affiant is forty-eight years of age, and that he is disinterested in said matter, and makes the following statement with reference to what occurred during the time he was in said office:

About five minutes past 12 o'clock, noon, December 31, 1888, I entered through the west door of the money order and register department of the post-office with a list of money orders and postal notes belonging to the Indiana Farmer Company, publishers of a weekly agricultural paper bearing that name. I stopped at the first window to the left at the money-order department and handed my list to Mr. Alfred H. Johnson, money-order clerk, to be cashed. I then walked on in an eastwardly direction and stopped at the first window to the right at the registry department. There were two men transacting business with Mr. Pence, the registry clerk, then on duty. I was standing with my face to the west waiting my turn when a man, well dressed, wearing a cap, stopped at the money-order window and said, "I want to see a Mr. Johnson." I heard Mr. Johnson answer, "I am the man." I heard Mr. Johnson further say that, "I am very busy" and think he said, "I can't leave." I can not say to whom the last remark was addressed.

About this time the two men at the registry window preceding me walked away, and I then turned to the registry book with my face fronting south and began receipting for registered letters addressed to the The Indiana Farmer. Mr. Pence, the registry clerk, waited on me. He was very busy. While looking over the list on the registry book Mr. Johnson passed out behind my back to the west, and said to me, as he passed, "Please excuse me one minute, I have to go out." I think these were the words. He was gone a very short time. After signing the registry book and getting my letters I turned and went in a westwardly direction to the money-order window. As I turned to go I saw through the window the same man that was talking to Mr. Johnson in an open buggy on Market street, turning around to the left, as if he were going north on Pennsylvania street or west on Market. Could not see which street he selected. In a very short time Mr. Johnson came back, finished

checking my list preparatory to cashing it, turning the money-orders and postal notes over to Mr. Keely, his assistant, who had just come in, to be stamped and duplicates to be examined.

Mr. Johnson began writing a money-order for another man when he missed the money. He asked Mr. Keely if he had transferred any money. Receiving a negative answer, he then called to Ben Jones, the cashier, and asked the same question. The discovery was then made that the money was gone, and Mr. Johnson immediately informed me that the office had been robbed and that I would have to wait until later in the day for settlement of my list. I will further state that I am the bookkeeper and cashier for the Indiana Farmer Company, whose place of business is at No. 75 East Market street in said city of Indianapolis. I will also state that the transactions of my said company with the money-order department of the Indianapolis post-office are very large, and that on the day of the robbery my list amounted to between $300 and $400. Within a very few minutes after the robbery had taken place, and before I left the window of the money-order department, I heard Mr. Keely, the assistant, say that from a distant part of the office, and while Mr. Johnson was out of the office, he, Mr. Keely, had caught a glimpse of some one in the money-order department.

And further affiant saith not.

WILLIAM P. BALLARD.

Subscribed and sworn to before me this 11th day of January, 1889.

[SEAL.] NOBLE C. BUTLER,
Clerk U. S. District Court, District of Indiana.

STATE OF INDIANA,
County of Marion, ss:

OLIVER A. KEELY, being duly sworn, says that he is twenty-two years of age; that he is a resident of Indianapolis, Marion County, State of Indiana, and has lived in said city for more than twenty-two years, and that he has been employed as one of the assistant clerks in the money-order department in the Indianapolis post-office for more than two years last past, and was so employed on the 31st day of December, 1888, and makes the following statement with reference to the theft of the money-order funds from said post-office on the 31st of December, to wit: "My regular hour for leaving the office for dinner is 11 o'clock or a little after, and I am due at the office at 12:45 p. m. During Monday morning, December 31st, 1888, Mr. Johnson, the superintendent of the money-order department, told me that he had been requested to sing at a funeral to be held at two o'clock that afternoon, and asked me to return a little earlier than usual if possible.

I returned to the office at 12:15 and entered the post-office by the south entrance on Pennsylvania street, and in through the rear door to the city distributing case, which is located in the southeast corner of that portion of the post-office building, being almost directly south of the counter window of the money-order department, and stopped there to obtain the mail for the money-order department which had been received during the morning. While standing at the case, facing the west, I glanced to the right and saw, inside the money-order department, a person whom I know was not Mr. Johnson. I came across with the mail and entered the money-order department and found no one in the office. While I was changing my coat Mr. Johnson came in and hurriedly passed to his seat at his desk, and looking up and noticing me, said, "Keely, you take this Ballard list and find the advices for these orders, please, while I clear up this other work."

I had hardly commenced the work, as requested, when some one appeared at the window who desired a money-order issued, and Mr. Johnson arose from his seat to wait upon him. Immediately afterwards he said to me, "Keely, have you transferred any of this money (referring to the money which had been received during the morning for the issue of money orders and postal notes)?" I replied, "No, sir." He then said, "Ben, have you had any money from here," the latter remark being addressed to Mr. Ben. Jones, cashier, who had followed us into the office and was in his department, adjoining the money-order department. Mr. Jones said, "No." Mr. Johnson then said, "Then some one has gone through the office," and asked me to issue the order and take charge of things until he returned, and, taking his overcoat, left the office.

At the close of business the cash was found to be short in the sum of $2,438.00 (twenty-four hundred and thirty-eight dollars).

And further affiant saith not.

OLIVER A. KEELY.

Subscribed and sworn to before me this 11th January, 1889.

[SEAL.] NOBLE C. BUTLER,
Clerk U. S. District Court, District of Indiana.

[Copy of telegram.]

Dated INDIANAPOLIS, IND., *December 31, 1888.*

To C. F. MACDONALD,
Superintendent Money-Order System, Washington, D. C.:

The money-order department was robbed of about $2,500 about noon by a sneak thief. Wire any special instructions you wish to give.

A. H. JOHNSON,
Superintendent Money-Order Department.

[Copy of telegram.]

Dated INDIANAPOLIS, IND., *December 31, 1888.*

To C. F. MACDONALD,
Superintendent Money-Order System, Washington, D. C.:

Exact amount stolen from money-order department to-day is $2,438. Will you authorize the offer of a reward?

A. JONES,
Postmaster.

POST-OFFICE DEPARTMENT,
OFFICE OF SUPERINTENDENT OF MONEY-ORDER SYSTEM,
Washington, D. C., January 3, 1889.

SIR: I transmit herewith, for your information and such action as you may deem expedient, copies of two telegrams, dated December 31, 1888, addressed to this office, one by the superintendent of the money-order division of the post-office at Indianapolis, Ind., the other by the postmaster thereat, reporting the theft from that office by a sneak thief on the 1st ultimo of $2,438 money-order funds.

I am, respectfully, etc.,

W. B. COOLEY,
Acting Superintendent.

Hon. E. E. BRYANT,
Assistant Attorney-General for the Post-Office Department.

[Subject: Robbery of post-office at Indianapolis, Ind. Case No. 129424, B. J. E. Darbellay and R. F. Stuart, post-office inspectors.]

POST-OFFICE DEPARTMENT, OFFICE OF POST-OFFICE INSPECTOR,
Indianapolis, Ind., January 3, 1888.

SIR: We have the honor to return the above-numbered case, relating to the robbery of the post-office at Indianapolis, Ind., on December 31, 1888, and [to report] that personal investigation has been made by us. The robbery occurred between 12 and 12:30 p. m. on December 31, 1888, in the money-order division of this office, while three of the clerks were gone to their dinner and Mr. A. L. Johnson, the superintendent, was left alone in the office for thirty minutes, which is customary.

It appears that a gentleman presented himself at the wicket and, addressing Mr. Johnson, stated that a gentleman wished to see him; he was in a buggy on Market street. Mr. Johnson open[ed] a window facing the street and stated that it was impossible for him to go out and leave his office; that he was alone, and if he desired to see him he must come in. To which the man outside replied that he would detain him but a minute or so, and that he had a very sore leg and was unable to walk. This seems to have appealed to Mr. Johnson's sympathies; he put on his coat and went out in a hurry.

To the best of Mr. Johnson's recollection there were three people in the lobby: one Mr. Ballard, which he distinctly remembers because he had a money-order list which [he] brought to be cashed, and he excused himself to Ballard, saying that he would be back immediately. In going out he had to go through the cashier's room, as described by the broken line in diagram. The door leading to the cashier's room from the lobby has a catch-spring lock which is self-acting, and, according to the statement of B. Jones, cashier, was set all day; and Johnson thinks that he heard the door slam behind him. However, this seems to be improbable, because if the door had been closed it would have been locked, and [it] would have been difficult for any person to enter into the money-order office.

Mr. Jones was also absent at the time; was gone to the bank after some currency to pay off the postal clerks.

Mr. Johnson came back immediately; he says that the door was not closed or locked, and he thought Mr. Keeler was in the office when he returned, but was not positive. Upon his return he sat down at his desk, checking off Mr. Ballard's list of orders until some one called at the wicket for a money order; in making change he first discovered that his money was gone, and he immediately inquired of the cashier if he had taken any money from his desk. After being informed that he had not, the police authorities were immediately notified of the robbery. The United States marshal wired the authorities of all neighboring cities, and a watch was placed at all depots in this city for the purpose of apprehending the guilty persons, and notice was immediately sent to inspector in charge at Chicago and to the Superintendent of Money-Order System, Washington, D. C.

We have closely questioned O. A. Keeler, one of the clerks in that division. He states that he came back from his dinner earlier than usual on that day in order to relieve Mr. Johnson, who wanted to go to a funeral that afternoon. He thinks that he came back about 12:15 p. m., and came in by way of the carrier department, which is located in the south side of building. After he came in he went to the letter case to get the mail for the money-order division, and while getting the mail he said he saw some one in the money-order office at the window, a stranger with black hair; but, upon a close examination, we find that it was impossible to describe a person from where Keeler stood, the distance being 110 feet, and a man would have to look through three glass partitions, one of them stained.

We have also interviewed Mr. Ballard, who was in the lobby at the time. He states that he remembers distinctly the man that spoke to Mr. Johnson about the man in the buggy which [who] desired to see him, and when Johnson went out, and, to the best of his knowledge, he was not gone over five minutes; he did not observe any one in the money-order office during Mr. Johnson's absence, because his desk was facing that way while he was transacting business with the registry clerk, whose office is opposite the hall.

We have also visited A. M. Seibert, who was in the lobby at the time or shortly before Johnson went out. He says he did not see anyone in the money-order office except Johnson and a smooth-faced boy, who is one of the clerks. It appears that no one has seen any man in the office, with the exception of Keeler, and, in our judgment, he was certainly mistaken. It seems very strange that it was possible for anyone to obtain an entrance in the office without being seen, and to take that amount of money directly in front of the window and come out without being noticed.

We herewith inclose the statement of A. L. Johnson, Exhibit A, with diagrams, and of Ben. Jones, Exhibit B, for your information and action.

I [we] left Chicago, pursuant to your instructions, December 31, 1888, at 11 p. m., and arrived at Indianapolis next morning; met Inspector Stuart and requested his assistance in the investigation of this case. We first proceeded on the investigation of the money-order funds, and found that cash was all there, except the amount claimed to have been stolen, as follows:

[Here follows a detailed statement of the money-order account, showing a deficit of $2,438.]

We have made a careful inquiry relating to the standing and character of Mr. Johnson and Keeler, and find it very good. In our opinion, there is no doubt that a robbery has been committed and the amount of $2,438 stolen from the money-order funds.

Mr. Johnson has an excellent record as superintendent of that division. He was always careful. It was a surprise to his numerous friends to learn that he had been taken in by those adroit thieves.

We believe that Mr. Johnson is guilty of gross carelessness for abandoning his office; had he remained, this loss would not have occurred. Johnson was appointed to this position through the recommendation of Aquilla Jones, jr., son of postmaster and a prominent attorney here. It appears that Johnson gave no bonds to the postmaster when he was appointed, but A. Jones, jr., informed the postmaster that he felt morally bound to make the loss good in case the postmaster should be held responsible.

We have obtained a full description of the man that was in the buggy; we are reliably informed that it was ———, the noted bank sneak, with his pal, ———, that did the work

Pinkerton signified his intention to assist us to run down the thief. Together with the coöperation of the local force in the cities, we hope to be successful.

We have given you the full facts in the case, and we submit the same to you for your information and action.

Respectfully,

J. E. Darbellay,
R. F. Stuart,
Inspectors.

To Inspector in Charge, *Chicago, Ill.*

[Form No. 224.]

Claim for credit or reimbursement under acts of March 17, 1882, and May 9, 1888.

STATE OF INDIANA,
County of Marion, ss:

On this 9th day of January, 1889, before the undersigned, a notary public in and for said county and State, personally appeared Aquilla Jones, sr., who, being by me first duly sworn, on oath says that he was postmaster at Indianapolis, in the county of Marion and State of Indiana, on the 31st day of December, 1888; that on said date and at about 12:20 o'clock in the daytime, as nearly as he can determine, he sustained losses in the amounts and of the character hereinafter set forth, and for which he claims credit; that the said losses did not result from any fault or negligence on the part of affiant, but from theft, the circumstances of which are fully set forth in the affidavit which accompanies this claim.

That the following statement shows correctly the money-order transactions had by affiant from the *end of the week previous* to the one in which said loss occurred to and including the date of the loss. [The amount given in each instance *must include only the "cash" actually in the postmaster's possession, and not remittances in transit or unacknowledged* and should show the amounts on hand *at the close of business* on the dates mentioned:]

Day of week.	Day of month.	Year.	Cash on hand.	Independent reserve allowed.	Surplus.	When remitted.
Saturday	Dec. 29	1888	$2,528.12	$1,200.00	$1,328.12	Monday a. m., Dec. 31, 1888.
Monday	Dec. 31	1888	4,334.43	1,200.00	3,134.43	(*)

* No part remitted, as the following day, Tuesday, January 1, 1889, was a legal holiday, and the banks were not open.

Affiant states that $2,438 of the amount thus shown to have been in his possession at the close of business on the 31st day of December, 1888, was lost by the said Aquilla Jones, sr., leaving in his possession after the said loss occurred money-order funds to the amount of $1,896.43, and no more.

Affiant therefore claims credit or reimbursement for the following amounts, lost as aforesaid, viz: For money-order funds, $2,438, or for such other amounts as may be found justly due him.

Affiant further says that said loss resulted from theft. While the chief of the money-order department, Alfred H. Johnson, was alone in his department on the day of the theft, said Johnson was called out of his office in the manner and form as set forth in his affidavit hereto attached and made a part of this affidavit; and this affiant refers to said affidavit of said Alfred H. Johnson as containing a full and explicit statement of all the facts and circumstances connected with said loss.

AQUILLA JONES, Sen.,
Postmaster.

Subscribed and sworn to before me this 11th day of January, A. D. 1889.
[SEAL.] NOBLE C. BUTLER.
Clerk United States District Court, District of Indiana.

STATE OF INDIANA,
County of Marion, ss:

Alfred H. Johnson, being duly sworn, says that he is 38 years of age; that he is a resident of Indianapolis, Marion County, State of Indiana, and has lived in said city for more than eight years last past, and makes the following statement with reference to the theft of the money-order funds of the Indianapolis post-office, on Monday, 31st of December, 1888, to wit: "I am superintendent of the money-order division of the Indianapolis post-office and have been since the 15th of August, 1885. My assistants are C. W. Byfield, O. A. Keely, and Miss Clara Quigg. Mr. Keely leaves for dinner between 11 and 12 o'clock and is due to return at 12:45. Mr. Byfield leaves at noon and returns shortly after 1 o'clock p. m. Miss Quigg leaves generally about 12:30 p. m.; earlier than that if the condition of work permits. My hour for leaving the office for dinner is upon the return of Mr. Keely at 12:45, if the condition of the morning's work warrants it. This arrangement leaves me alone in the office, usually, from 12 o'clock or 12:30 to 12:45, and the arrangement, as made, is owing to the fact

that all the clerks mentioned live in the extreme northern portions of the city and a long distance from the post-office.

On Monday, the 31st of December, 1888, I had been requested to sing at a funeral to be held at 2 o'clock p. m., and requested Mr. Keely to return a little earlier than usual if possible, and he reached the office about 12.15 p. m. The money-order department is situated on the north side of the post-office building, fronting north on Market street, between the stamp department on the west, from which it is separated by a wire screen in which there is a door, and the cashier's office on the east, from which it it separated by a board partition about 7 feet high, through which there is a door; and access to the money-order department can only be had from the lobby by entrance through one or the other of these other departments. The cashier's department is connected with the office of the postmaster by a heavy wooden door which is kept locked all the time; and each of the doors opening into the lobby from the stamp department and the cashier's office is provided with a snap lock and a spring for throwing the door shut; the door to the lobby from the stamp department is always locked with the spring catch.

The cashier has no window for the transaction of business over his counter, and therefore, when he is on duty at his desk, except when receiving or paying money and while one or more of the employés of the money-order department is on duty, the door from his department into the lobby sometimes stands unlocked and occasionally open, but in such cases the door between the cashier's office and the money-order department is kept closed. Always when the cashier is making up his pay-roll or opening the quarterly remittances of postal funds remitted by other postmasters, the spring lock on his door leading into the lobby is sprung and the door kept closed and locked and the curtain down. On Monday, the 31st of December, 1888, Mr. Keely left at the usual hour. Mr. Byfield started a little before 12 o'clock, taking to bank $1,400, surplus money-order funds, which was to be remitted that day to the postmaster of New York City, on account of the balance of money-order funds on hand at the close of business on Saturday the 29th of December, 1888, and Miss Quigg left, I think, just at noon or within five minutes of that time, and I was left alone in the office.

The counter over which I transact business is on the south side of the money-order department. My case, containing advices of unpaid money-orders, stands upon the right of the counter, against the division between this office and the stamp department; at its left is the opening through which the money-order business is transacted. At the left of this opening are my blank domestic and international money orders and postal notes, dating stamps, and etc. The moneys handled by me during the day are kept in two separate accounts, all the moneys received for the issue of orders and postal notes being placed at the left of the window, and all the moneys received for remittances of surplus money-order funds from postmasters and from drafts drawn against my letters of credit in New York being placed upon the counter in front of the case of advices or in the cash drawer under the counter at the right of the window. When the aggregate money received in the morning from other postmasters has been counted, the gold and silver and small bills are placed in the cash drawer; the larger bills are counted in one hundred-dollar packages, crossed and placed on the counter for use during the day as required. If a large number of small bills is received, they are counted into packages of fifty ($50.00) dollars and used in bulk, silver being preferred for change and the payment of small amounts.

Monday is one of the busiest days of the week always, and this day, at this season of the year, was unusually so, and at noon my work was behind time as compared with the same hour on ordinary days Shortly after noon Mr. W. P. Ballard, for the Indiana Farmer Company, presented a list of postal notes and money orders, most of them for small amounts, but aggregating between $300 and $400, for payment, and, leaving the list with me to be checked, stepped across the lobby to the window of the register department, which is about twenty feet east of the money-order window, and on the south side of the lobby. Directly opposite the money-order window, on the inside, is a large exterior window on the Market street side of the post-office; midway between these two windows is my desk, at which I sit fronting the east. Just after placing Mr. Ballard's list upon my desk, after I had begun checking the same, I was addressed from the lobby at the counter window as follows: "Mr. Johnson, there is a gentleman in a buggy at the window who wishes to speak to you." As my name was spoken I glanced to my right to the speaker; as the better part of the sentence was uttered I looked to my left and saw a party seated in a buggy at the curbing just opposite the window on Market street.

I rose and stepped to the window and raised it partly, but the wind disturbed papers on my desk, and I closed it and placed weights upon the papers, and again raised the window and asked what he wished. not recognizing him. He said, "I wish to speak to you a moment on private business." I replied that I was alone in the office and could not leave it, and if he wished to speak with me he would have to come inside. He replied, "I have a lame leg (or a game leg), and but for that

ough his door into the lobby for the purpose of asking Mr. Ballard to
r leaving his work for a moment, otherwise I should have taken the
rough the stamp department.
had been very busy all the morning, and his door had been locked, and
d locked when I went out. I pulled it after me, and supposed it was
cked behind me. I stopped long enough in the lobby to ask Mr. Ballard
for a moment, and noticed two or three parties waiting to be served at
window after Mr. Ballard was through. Also noticed three or four
e counter and in the lobby, but none who seemed to be ready to be
at my department. I then very hurriedly passed through the lobby
lobby, and so out of the Market-street entrance to the post-office, and
steps to the buggy. As I approached the stranger leaned over the side
extended his hand, and inquired if I was Mr. Alfred Johnson. I said,
name, sir." He said, "I understand you have some lots on Arsenal
le." I immediately realized that I could have no business with him,
s rapidly as I could say the words, "No, sir, I have no lots there; there
H. Johnson in the city, on South Pennsylvania street, I believe; you
ldress from the directory; he is probably the man you want to see." He
m sorry to have made you the trouble; I will drive right around and
l, gathering up the lines, started west around the corner on to Pennsyl-
and I ran all the way back to the outer door of the lobby (it was raining
and hurried through the lobbies and the office to my desk.
taking my seat I noticed Mr. Keely changing his coat, and at once spoke
g him to take the Ballard list and find the advices for the money-orders,
d my attention to the other unfinished work on my desk. Before I had
enced it I was called to the counter window to wait upon some one
money-order issued. As I took the money paid for the order to place
f the window with the balance which had been received during the
ssed the paper money. I said, "Keely, have you transferred any of this
said, "No, sir." I said, "Ben, have you had any money from here?"
." (Mr. Ben Jones, cashier, had followed us almost immediately into
l was in his department and the door between us was open.) I then
right and saw that the $100 packages of money on the counter at the
indow were also gone.
flashed into my mind that I had been tricked out of the office and the
hile I was out. I said, "The some one has gone through the office,
sue this order and take charge of things till I return." I then took my
in the lobby spoke to Mr. Ballard, telling him that the office had been
e would have to wait for a settlement of his list until later in the after-
positive that it was not more than three minutes from the time the first
lressed to me asking me out until I discovered the loss of the money. I
ay to the police headquarters, which are nearly four squares from the
turned from there with the officer in charge to the mayor's court, where
was called out and came with me. On the corner of Delaware and
treet we met Supt. Travis, of the police force, and I again told what

the total shortage being, as wired that night to the Supt. of the Money-Order System, $2,438.

Mr. Ben Jones, the cashier, had told me in the morning that he should not go home to dinner, and I supposed he might be in at any moment, and, as a matter of fact, he had simply gone to the bank, one square distant, and returned, reaching the office just after Mr. Keely and myself came into our department. I was expecting Mr. Keely back early, and I went out from my department supposing that I left everything securely locked, and thinking more that my absence might cause delay or inconvenience to some one who might want to be waited upon before I returned than that there was any risk of loss by theft, with the doors locked, as I supposed them to be, and the lobby occupied as it was. Mr. Abbot, the stamp clerk at the stamp window, was very busy, and his back was squarely towards my department. I noticed as I passed through the outer lobby, both going out and returning, that there were a number of people in front of his window.

I have made a similar statement of the circumstances connected with this case, which I mailed to Chicago, Ill., addressed to J. E. Dorbelly, and have been informed by him that the same was received and attached by him to his report of this case, and that the same has been forwarded to Washington, the case number of the same being 129424 B. To my affidavit, so forwarded to him, I attached a diagram of that portion of the post-office referred to in my statement and reference is made thereto. I have been repeatedly spoken to by parties on the outside of the post-office, both on the sidewalk and in carriages while I was on duty, and have raised the window to speak to them, but I have never before been outside the office, nor out sight or immediate reach of my department, during business hours, unless one of the other clerks was on duty in my department at the time.

And further affiant saith not.

ALFRED H. JOHNSON.

Subscribed and sworn to before me this 11th day of January, 1889.

[SEAL.] NOBLE C. BUTLER,

Clerk U. S. District Court, District of Indiana.

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AQUILLA JONES, SR.

FEBRUARY 12, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany H. R. 914.]

The minority of the Committee on Claims do not agree with the committee in their conclusion that the claimant is entitled to the relief asked for in his bill.

Upon a careful consideration of the proofs filed and made a part of the report, it will appear: That on the 31st day of December, 1888, Aquilla Jones was the postmaster at Indianapolis, and that Alfred H. Johnson was superintendent of the money-order division of the office. About 12:30 o'clock p. m. a stranger came into the post-office and addressing him said: "Mr. Johnson, there is a gentleman in a buggy in the street who wishes to speak to you," and that Mr. Johnson without asking any question went to the window looking out upon the street and saw sitting in a buggy a stranger. That the stranger asked him to come out in the street, that he wanted to see him on some private business. That Mr Johnson replied that he was alone in the office, and could not leave it. To which the man in the buggy replied, "I have a lame (or a game) leg, but for that fact would not have troubled you. I will detain you only a moment, and will be greatly obliged if you will come out."

Upon this request Mr. Johnson left the office, and went out into the street.

Mr. Johnson had a few months before this time been elected secretary of the Mechanic's Saving and Loan Company, and the dues were payable that night. He did not know all the stockholders and thought that the man in the buggy was one of them, and wanted to settle his dues, and save himself the trouble of coming down town that night, and for this reason he left the office, and went into the street to see him. That when he left the office he failed to fasten the door and that the stranger who first spoke to him in the office was a sneak thief, and an accomplice of the man in the buggy, and this was the decoy used to get Mr. Johnson out of the office, and while he was in the street this man entered the office through the door left unfastened and robbed it. That Mr. Johnson soon found that the man in the street had no business with him, and returned to the office after a few minutes absence, and discovered that it had been robbed of the amount claimed by him in this bill.

Mr. Johnson was appointed to the position of superintendent of the money-order division of this office upon the recommendation of Aquilla

Jones, jr., son of the claimant, and a prominent lawyer of Indianapolis. That he gave no bond, and that Aquilla Jones, jr., has told Aquilla Jones, sr., that he was morally bound to make good the loss in the event the postmaster should be held responsible for it.

That this loss was investigated by two post-offices inspectors on the day following, and they both reported that there was gross negligence, and that the postmaster should make the loss good. These are uncontradicted facts which will appear in the report filed by the committee; and from them we are unable to see how upon any process of reasoning the Government should sustain the loss. Mr. Johnson left the office unguarded and unprotected with the money lying on the counter, with only one door between the stranger who robbed the office and the money, and he left this door unfastened and the money at the mercy of this man. His business did not call him into the street, and if it had been as he thought that this man was one of the stockholders of this new company and wanted to pay his dues, it was his duty to have required him to have waited until the other employés had returned to the office. In our opinion, he ought not to have gone out of the office and left it unguarded at a time when he alone was intrusted with its protection and care. We cannot see how he can justify this course of conduct when he left the business of the Government, for which he was employed and paid, to go out and attend to his private business, upon any pretext; it would seem to us to carry with it the consequences of his own neglect.

If this is not a case of gross negligence we are not able to find one. To set the precedent that the Government is liable in such a case would place it in the power of every unscrupulous agent, whether he be a postmaster or other Government official, to make proof of loss at any time that his accounts run short, and have it allowed, and his accounts credited therewith. Suppose this had been a banking institution and they had failed to make good the loss, and were to set up these facts as a defense in a suit to recover the money. Would any court regard it as a sufficient defense? We think not, and that Mr. Johnson would be required to make it good.

This would be true between man and man. Shall we apply another rule when dealing as the representatives of the people, with their money? We think it would be unsafe to do so. We are forced to disagree with the committee and recommend that the accompanying bill do not pass.

B. H. BUNN.
E. F. LOUD.
N. N. COX.
L. E. MCGANN.
JOHN E. REYBURN.
LOUIS E. ATKINSON.
SAM. BYRNS.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 15.

FIRST METHODIST CHURCH OF JACKSON, TENN.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1216.]

The Committee on War Claims, to whom was referred the bill (H. R. 1216) for the relief of the First Methodist Church of Jackson, Tenn., submit the following report:

The history of the claim is fully set forth in House Report from the Committee on War Claims, first session, Fifty-first Congress, which is apppended as a part of this report.

Your committee recommend that the bill do pass.

[House Report No. 1286, Fifty-first Congress, first session.]

On or about August 1, 1862, the Federal forces, under the orders of Col. M. K. Lawler, commander of the post at Jackson, Tenn., took charge of the Methodist Episcopal Church South, at that place, and the parsonage of said church, to be used as a hospital. The church and parsonage were used for hospital purposes about eleven months. The then pastor of the church, Lorenzo Lea, under oath, presented the claim of the church to the Quartermaster-General December 23, 1865, with an itemized estimate for rents, damages, etc., amounting to $2,800. March 4, 1867, the Quartermaster-General referred the claim to Brig. Gen. Thomas Swords for investigation and report, and he referred the claim to Geo. W. Marshall, Acting Quartermaster-General, who submitted the following report:

ASSISTANT QUARTERMASTER'S OFFICE,
Nashville, Tenn., April 24, 1867.

Respectfully returned, with the report that, after a careful investigation, I find that the within-mentioned church and parsonage was used by the U. S. Army as a hospital about eleven months; during that time the pews, benches, etc., were so injured and destroyed as to render them worthless; also, that the parsonage was greatly damaged by the destruction of the windows and blinds. The fencing around both church and parsonage was entirely destroyed. The church is 75 by 100 feet, made of brick; the parsonage is a large frame building; both were in good repair when taken by the U. S. Army for hospital purposes. Thirty-five hundred dollars has already been expended on the building since its occupancy by the Army, and it will take at least $800 more to put it in as good repair as when taken. Mr. Lorenzo Lea is, by virtue of his office as pastor, chairman of the board of trustees, to whom the property is deeded. Mr. Lea is now, and was during the late rebellion, loyal to the United States. A large majority of the trustees took the oath of allegiance as early as possible after the occupation of the country by the United States forces under Gen. Logan, have lived up to it, and are considered loyal.

G. W. MARSHALL,
Bvt. Maj. and Assistant Quartermaster.

By S. W. GROESBECK,
Lieut. and Acting Assistant Quartermaster-General in absence of Maj. Marshall.

The Quartermaster-General referred the claim to Gen. Sands, June 3, 1867, with the information that the claimants should forward to his office receipted bills for repairs for examination, showing amount, for what purpose, and how paid by them, in

order to insure early action in the premises. The acting assistant quartermaster-general reported as follows:

ASSISTANT QUARTERMASTER'S OFFICE,
Chattanooga, Tenn., August 5, 1867.

The inclosed claim of the Methodist Episcopal church at Jackson, Tenn., for damages ($2,800) is respectfully returned to Bvt. Maj.-Gen. Thomas Swords, assistant quartermaster-general U. S. Army, together with bills for work done upon said church since its occupation by our forces, to the amount of $4,050.39, most of which bills are receipted, and were furnished upon application by the trustees of the church. All the money paid for this work and the material has been raised by subscriptions and voluntary contributions from the members of the church and the various societies connected with the church.

W. A. WAINWRIGHT,
Capt. and Assistant Quartermaster.
By L. P. HOGARTS.

The acting assistant quartermaster-general made the following report to the Secretary of War:

"Respectfully returned to the Secretary of War. Under the decision of the War Department no rent can be paid for use of churches or other public buildings, neither can claims for rent for use of any kind of property in Tennessee be favorably considered which accrued during the war. The Quartermaster-General has no appropriation from which claims for damages can be paid."

These various reports show that the examination was a very careful and rigid one, and that the interests of the Government were guarded at every point, and that receipted bills showing the cost of repairing the church property and restoring it to its former condition have been filed to the amount of $4,050.39. Your committee, after a careful and thorough examination of the papers in the case, are satisfied that the sum of $4,050 is the amount justly due to said church. While your committee is aware that under the rules established by Congress the question of loyalty is not involved, it is well enough to invite attention to the following statement in the first report of the Assistant Quartermaster-General hereinbefore quoted:

"Mr. Lorenzo Lee is, by virtue of his office as pastor, chairman of the board of trustees, to whom the property is deeded. Mr. Lee is now, and was during the late rebellion, loyal to the United States. A large majority of the trustees took the oath of allegiance as early as possible after the occupation of the country by the United States forces under Gen. Logan, have lived up to it, and are considered loyal."

It appears from the records furnished this committee by the War Department that the claims of other churches allowed by the Quartermaster-General and paid by the Government for repairs, damages, and rents, resulting from use and occupation by the Army, are as follows: Fourteen churches in Kentucky, twelve in Maryland, five in Pennsylvania, ten in Tennessee, one in New York, four in Virginia, twenty-six in West Virginia, one in Ohio, thirteen in the District of Columbia, and five in Missouri. These adjudicated claims embrace the various denominations. Congress has, since the allowance of these claims, passed several acts making appropriations to pay churches in the various States their claims which were rejected by the Quartermaster-General. From the final report of the Quartermaster-General in this case, hereinbefore quoted, it will be seen that this claim was not paid because "the Quartermaster-General has no appropriation from which claims for damages can be paid."

Your committee are of the opinion that the claim should be paid as proven. The estimate submitted by the pastor of the church, under oath, was on the safe side as a matter of conscience, but when it came to make the repairs and restore the property it was found below the actual cost, and even then some of the bills, not presented and paid at the time the receipted bills were furnished, are not embraced in the cost of repairs. Your committee therefore recommend that the claim be allowed for $4,050.39, as proven before the Quartermaster-General, and that this amount be paid to the trustees of the Methodist Episcopal Church South, in Jackson, Tenn. (now known as the First Methodist Episcopal Church South, of Jackson, Tenn.), and that the bill be amended in accordance with this report, and that the bill as amended do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 16.

ANDREW J. DUNCAN, DECEASED.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2576.]

The Committee on War Claims, to whom was referred the bill (H. R. 2576) for the relief of the estate of Andrew J. Duncan, deceased, submit the following report:

The history of the claim is set forth in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 1300, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3146) for the relief of the estate of Andrew J. Duncan, deceased, having carefully examined into the facts and considered the merits of this claim, respectfully reports—

That during the late civil war Andrew J. Duncan was a resident of Nashville, Tenn., and was the owner of an estate on the Franklin Pike, 2 miles west of that city, which was his home, called "Waverly Place," consisting of fine brick and frame buildings, barns and other outhouses, fencing, agricultural implements, trees, etc., which, to the value, as he alleges in his petition to Congress, of $39,225, was all destroyed during the campaign around Nashville in 1864, and the materials devoted to the use of the troops of the United States.

The claim was early presented to the proper authorities of the Government and would have been settled long since but for the refusal of the Quartermaster-General to certify to the loyalty of the claimant, a prerequisite to its consideration; and he was compelled to come to Congress for relief, which has been followed by the delays often found in such appeals.

At the Forty-ninth Congress Judge Lyman, for this committee, in his report declared that "manifest injustice" has been done to the claimant, and the bill was reported favorably, but it was not reached on the calendar for action by the House.

At the Fiftieth Congress a bill (H. R. No. 587), conforming in amount of allowance to the recommendations of that committee, was introduced; and it was, under the provisions of the act of March 3, 1883, known as the Bowman act, referred to the Court of Claims for findings of fact. The original claimant having died, his administrator prosecuted the case before that court, and submitted the evidence of General Rosecrans and others in support thereof. The findings of fact reported from the Court of Claims show that Andrew J. Duncan was loyal during the war. And as to the merits of this claim that:

I.

The United States forces, a division of Fourth Army Corps, under the authority of their officers, Brig. Gen. N. Kimball commanding, demolished the buildings mentioned in the petition and carried away the bricks and lumber composing the same, and used the same, partly in the construction of fortifications and obstructions in front thereof, and partly as fuel and lumber in the camp of the United States troops encamped on the property.

The wagons and harness and other articles there enumerated were seized and used by the United States forces, under the authority and in presence of their commanding officers, Generals Cross and Kimball.

II.

On the 24th of April, 1865, Major-General Thomas, commanding the Department of the Cumberland, appointed a board "to assess the damages inflicted by military occupation upon the property of John Trimble and others and such other parties as may be referred to it by these headquarters."

The board made the following report as to the property of the claimant's intestate:

NASHVILLE, *May* 3, 1885.

The board having maturely deliberated upon the testimony adduced is of opinion that the damages sustained to the property of A. J. Duncan was done by United States troops, and do hereby assess the damages as set forth in the following bill, viz:

Items.	Section 1.—Damages assessed on—	
No. 1.	20,000 cedar picket fencing	$416.66
2.	Front fence of cedar	183.33
3.	Stone column, caps, and butts	150.00
4.	Cedar fence, inclosing house and garden	296.66
5.	One mowing and reaping machine	98.33
6.	One large iron roller	54.00
		1,198.98
	Section 2.—Damages assessed on—	
7.	Four plows	20.00
8.	Four sets harness	36.66
9.	Water-hose and implements	66.66
10.	Two carts or spring wagons	91.66
11.	One wagon	66.66
12.	One two-story brick dwelling, 72 feet front, with L, complete, pantry, etc	7,360.00
		7,641.64
	Section 3.—Damages assessed on—	
13.	Furniture and stores, estimated	166.66
14.	Two-story barn, 130 by 60 feet	1,200.00
15.	Brick smokehouse	208.33
16.	Double frame building, servants' room	331.66
17.	Double frame building, servants' room	331.66
18.	Single frame building, servants' room	221.66
		2,459.97
	Section 4.—damages assessed on—	
19.	Two-story log building	256.66
20.	Frame building	154.33
21.	Three large cistern pumps, pipes, etc	175 00
22.	Large bath-room and fixtures	71.66
23.	Brick office complete, and furniture	255.00
24.	Destruction by cutting 600 trees, evergreens, etc	5,923.33
		6,835.98
	Aggregate	18,136.57

We do hereby certify that the damages awarded as set forth in our bill at $18,136.57 as being a correct and just statement in conformity with the evidence before us.

CHARLES C. MCNEELY,
Capt., Seventh Kentucky Cavalry Volunteers and President of the Board.
J. G. MACADAMS,
Lieut., Sixth Kentucky Cavalry Volunteers.
W. S. STACY,
Lieut., Seventy-eighth Pennsylvania Volunteer Infantry.

Official:
GEO. W. HOWARD,
Assistant Adjutant-General.

HEADQUARTERS MILITARY DIVISION OF THE TENNESSEE.
Nashville, July 30, 1866.

Approved:
By command of Maj. Gen. Thomas:

WM. D. WHIPPLE,
Assistant Adjutant-General.

The court further found that Mr. Duncan had in his lifetime been paid for items Nos. 1, 2, 4, and 24 of that finding, amounting to $6,819.98, which sum being deducted from the valuation found by that board of officers, leaves a balance unpaid for of $11,316.59, which is the amount set out in the bill now reported upon introduced at this Congress.

But your committee fails to find satisfactory evidence as to the manner in which the United States troops used the plows, mowers, and reapers, rollers, water-hoses, pumps, etc., covered by items Nos. 5, 6, 7, 9, 21, and 22 of the account stated by that board and reported by the Court of Claims, aggregating a total of $484.99, and deducting said sum from the amount last above mentioned, it leaves a total of $10,831.99, which your committee considers a fair and just allowance to be made in satisfaction of said claim, being payment for the materials only which were in the buildings, barns, and outhouses of Mr. Duncan.

Your committee therefore recommend that said bill, H. R. 3146, be amended by striking out in the seventh and eighth lines the words "eleven thousand three hundred and sixteen dollars and sixty-three cents" and inserting in lieu thereof the words "ten thousand eight hundred and thirty-one dollars and sixty cents," and with that amendment report the bill back to the House with a cordial recommendation that, as an act of justice already too long delayed, it be passed.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 17.

STEPHEN MOORE, ADMINISTRATOR OF WILLIAM HOPPER, DECEASED.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 66.]

The Committee on War Claims, to whom was referred the bill (H. R. 1227) for the relief of Stephen Moore, administrator of William Hopper, deceased, report as follows:

That this is a claim for quartermaster's stores alleged to have been taken from the decedent by the Army of the United States during the late war. Claim stated at $477.

Your committee is of the opinion that the claim should be referred to the Court of Claims for a finding of facts under the provisions of the act of March 3, 1887, and report herewith a resolution and recommend its passage.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 18.

CUMBERLAND FEMALE COLLEGE, McMINNVILLE, TENN.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2122.]

The Committee on War Claims, to whom was referred the bill (H. R. 2122) for the relief of Cumberland Female College, of McMinnville, Tenn., submit the following report:

The facts of this claim are fully set forth in a report made by this Committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 2647, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 9688) for the relief of Cumberland Female College, submit the following report:

Cumberland Female College of McMinnville, Tenn., was chartered under the laws of Tennessee in 1851, the cost of the building, etc., being about $25,000. From 1851 to 1861 it was in successful operation. In 1862 the buildings were seized by the Federal forces and converted to hospital use. From its seizure in 1862 until the close of the war the school grounds and buildings were almost continuously used by the Union Army for hospital purposes, the town of McMinnville being held as a permanent military post. The property was in fine condition when seized in 1862. When the war ended the buildings and grounds were in a badly wrecked condition, the furniture broken and destroyed, and the apparatus almost entirely ruined.

The evidence fully shows that a conservative estimate of the damage to the grounds, buildings, furniture, and apparatus would place the loss at not less than $5,000, and that the further sum of $2,500 would be a moderate compensation for the use and occupation of the premises.

In view of the foregoing your committee recommend the passage of the bill with the following amendment:

In line 6 strike out "ten thousand" and insert in lieu thereof "seven thousand five hundred."

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 19.

HIRAM JOHNSON AND OTHERS.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1219.]

The Committee on War Claims, to whom was referred the bill (H. R. 1219) for the relief of Hiram Johnson and others, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the first session of the Fifty-first Congress, hereto annexed and made a part of this report.

Your committee therefore adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 14, Fifty-first Congress, first session.]

The facts out of which this claim for relief arises and the reasons of the committee for recommending the passage of the bill will be found stated in the report of the Committee on War Claims, submitted to the second session of the Forty-sixth Congress, by Gen. Bragg, of Wisconsin, who was then chairman of said committee, which report is as follows:

[House Report No. 1345, Forty-sixth Congress, second session.]

The Committee on War Claims, to whom was referred the petition of Hiram Johnson and others for relief, submit the following report:

The facts out of which this claim for relief arises will be found stated in House report of the Committee on Military Affairs, No. 184, second session, Forty-fourth Congress, and in reports from the Secretary of War, with correspondence attached, on file with the papers in the case, and are in substance as follows:

On the 25th day of November, 1862, a party of rebels made a raid upon a small force of Union troops stationed at Henderson, in the State of Tennessee, on the Mobile and Ohio Railroad. The raiding party captured the Union troops, with their arms and camp equipage, burned a quantity of cotton belonging to the United States and to private individuals, and also destroyed the depot buildings and water tank belonging to the railway corporation.

Thereupon, on the 2d day of December following, the commandant of the Union forces at the post of Bethel, Tenn. (Col. J. N. Haynie, Fortieth Regiment Illinois Volunteers), appointed a board of officers to investigate the losses sustained and appraise the damages suffered from the raid, with a view to an assessment by way of reprisal upon rebel sympathizers in and about Henderson.

The board so appointed assessed the value of the property captured and destroyed as follows:

Cotton burned belonging to the United States	$1,900.00
Arms and camp equipage belonging to the United States	3,180.00
Total belonging to the United States	5,080.00
Cotton belonging to private persons	18,171.36
Railway property	3,500.00
Grand total	26,751.36

Upon this report being made, Col. Haynie ordered an assessment of this amount to be levied upon the rebel sympathizers in and about Henderson, which action was approved at the headquarters of the district of Jackson, in the Department of Tennessee, Brig. Gen. Sullivan commanding, on the 12th day of December, 1862; and an order bearing date on that day was issued from said last-named headquarters directing the collection of the tax.

Col. Haynie proceeded in the execution of the order, and collected of the said assessment the sum of $23,325.16, leaving a deficit of $3,426.20 not collected, by reason of the absence of the persons against whom the same was assessed. And thereafter, but at what precise date does not appear, Col. W. W. Sanford, Forty-eighth Illinois Volunteer Infantry, commanding post at Bethel, made an additional and supplemental assessment for $4,326.20, to make up such deficit; and of this amount there was collected $4,026.20, making the total amount collected to repair losses and damages sustained by said raid $27,351.36; all of which sum was paid by the persons now asking relief by this petition.

The right of the military commandant, in time of war, to order and enforce assessments upon hostile communities by way of reprisal, and to prevent the giving information and encouragement to enemies outside of his lines by enemy sympathizers within his lines, is well settled and affirmed by all writers upon the laws of war, and is a most salutary check upon predatory incursions, by making the friends of those who commit the damage bear the brunt of the injury suffered.

At the time of the appraisal of the damages and of the levying and collecting these assessments it was supposed to be under and in execution of an order of Gen. Grant, then commanding the troops in that department. But it appears from the papers filed that Gen. Grant disavowed the construction put upon his general orders by the local officers, and declared the purpose and intent of his general order to be that reprisal should be made by way of levy and assessment in case of raids within our lines, like the one at Henderson, only to repay such losses as the Government might sustain in its property thereby, and he refused to recognize the right of private claimants to reimbursement by such levy and assessment; and on the 23d day of January, 1863, ordered the proceeds of such assessment and collection to be turned over to the Provost-Marshal-General; and it appears by the papers filed that his action in denying the right of private claimants to reimbursement for losses sustained by the raid out of this fund was approved by the Secretary of War, on the report made thereon by Gen. M. C. Meigs, which report maintains the law to be that the power existed to levy and collect an assessment to pay private losses in the discretion of the general commanding; but as against such general's construction of his own order and purpose no right whatever could accrue to a private claimant for reimbursement.

The logical sequence from these facts, and this declaration and construction by Gen. Grant of his orders, seems to be that the subordinates, in the execution of the orders of the commanding general, should have made an assessment only for the losses sustained by the Government, viz:

For cotton burned belonging to the United States	$1,900
Arms and camp equipage belonging to the United States	3,180
	5,080

Had the Government rebuilt or repaired the injury to the railway property, as an essential for their use of it, that also should be included as a proper item for assessment; but the evidence shows that the railway company repaired their injuries at their own expense.

Deducting this amount, for which the assessment was authorized, from the total amount collected, there remains a balance $22,271.26 taken from the petitioners under a misconstruction of the order of the commanding general, as certified to by his own action and the evidence of an officer of his staff.

This committee have maintained, and still adhere to the doctrine, that no nation is liable for the willful torts of its soldiery.

But was this assessment a tort, within the meaning of such well-established doctrine? It is submitted that this wrong is clearly without the rule, because this assessment was collected by an officer of high rank, commanding a military district, in the execution of an office giving him colorable authority, to say the least, to do the act he did; and that act was ratified by the general commanding, impliedly at least, by not ordering restitution when the excessive assessment came to his knowledge.

But if the reasoning on this point may be deemed questionable, there is upon the facts another and complete answer to the application of this principle. The proof shows to an absolute certainty that of the money so collected $23,325.16 was applied by the United States to its use, knowing the source from whence it was derived, and the remainder of the sum, $4,026, by all reasonable presumption, was likewise applied to the use of the Government. And the committee is so constranied to hold, as a contrary conclusion would compel us to impeach the integrity of a gallant officer who fell before Vicksburg without a stain upon his citizen or soldier life.

The law of the case, then, may be stated to be, that if the officers, agents of the Government, committed a tort originally, it was approved by the principal, the Government, when it knowingly accepted the benefits of the tortious acts. And no proceedings by way of confiscation or condemnation have ever been had to divest the persons so assessed of their right in the surplus fund.

Hence your committee are constrained to hold that the claims of the petitioners to the amount collected of them ($22,271.26) in excess of the requirements of Gen. Grant are valid, and that the Government ought in right to refund the same; and report herewith a bill, redistributing the same to the persons who paid the same ratably, in proportion to the sums originally paid by each of them, respectively, and recommend its passage.

Your committee adopt the said report as their own, and report herewith a substitute for the bill and recommend its passage.

House Report No. 3236, Fifty-first Congress, first session.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5164.]

The Committee on War Claims, to whom was referred the bill (H. R. 5164) for the relief of the book agents of the Methodist Episcopal Church South, a corporation at Nashville, Tenn., have had the same under consideration and submit the following report:

The facts out of which this claim for relief arises will be found stated in the Senate report of the Committee on Claims of the Forty-fifth Congress, a copy of which is hereto annexed.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[Senate Report No. 146, Forty-fifth Congress, second session.]

The Committee on Claims, to whom was referred the petition of the book agents of the Methodist Episcopal Church South, a corporation at Nashville, Tenn., have had the same under consideration, and submit the following report:

The Confederate forces having occupied Nashville, Tenn., for a short period during the late civil war, evacuated that place after the surrender of Fort Donelson. Within three or four days after that event General Buell, with his army, reached Edgefield, a village separated from Nashville by the Cumberland River. There he was met by the mayor of Nashville, who was accompanied by a delegation of citizens and some members of the city council.

When General Buell was informed of the object of their mission, which was to inform him of the condition of Nashville, and to invite him to occupy and protect the city, he expressed gratification at the proceeding, and assured the deputation "that protection to both persons and property of all peaceable citizens would be fully extended by the Army of the United States," and he requested the mayor so to inform the people of Nashville. Whereupon the mayor issued the following proclamation:

PROCLAMATION.

The committee representing the city authorities and the people have discharged their duty by calling on General Buell at his headquarters in Edgefield on yesterday. The interview was perfectly satisfactory to the committee and there is every assurance of safety and protection to the people, both in their persons and their property.

I therefore request that business be resumed, and all our citizens, of every trade and profession, pursue their regular vocation.

The county elections will take place on the regular day, and all civil business will be conducted as heretofore; and the commanding general assures me that I can rely upon his aid in enforcing our police regulations. One branch of business is interdicted—the sale or giving away of intoxicating liquors. I shall not hesitate to invoke the aid of General Buell in case the recent laws upon this subject are violated.

I most earnestly call upon the people of the surrounding country, who are inside of the Federal lines, to resume their commerce with the city, and bring in their market supplies, especially wood, butter, and eggs, assuring them that they will be fully protected and amply remunerated.

R. B. CHEATHAM,
Mayor.

This proclamation was issued on the 26th of February, 1862. On the same day General Buell issued his proclamation, as follows:

GENERAL ORDERS, No. 13.

HEADQUARTERS DEPARTMENT OF THE OHIO,
Nashville, Tenn., February 26, 1862.

The general commanding congratulates his troops that it has been their privilege to restore the national banner to the capital of Tennessee. He believes that thousands of hearts in every part of the State will swell with joy to see that honored flag re-instated in a position from which it was removed in the excitement and folly of an evil hour; that the voice of her own people will soon proclaim its welcome, and that their manhood and patriotism will protect and perpetuate it.

The general does not deem it necessary, though the occasion is a fit one, to remind his troops of the rule of conduct they have hitherto observed and are still to pursue. We are in arms not for the purpose of invading the rights of our fellow-countrymen anywhere, but to maintain the Union and protect the Constitution under which its people have been prosperous and happy. We can not look with indifference on any conduct which is designed to give aid and comfort to those who are endeavoring to defeat those objects; but the action to be taken in such cases rests with certain authorized persons, and is not to be assumed by individual officers and soldiers. Peaceable citizens are not to be molested in their personal property. All wrongs to either are to be promptly corrected and the offenders brought to punishment. To this end all persons are desired to make complaint to the immediate commander of officers or soldiers so offending, and if justice be not done promptly, then to the next commander, and so on until the wrong is redressed. If the necessities of the public service should require the use of private property to public purposes, compensation is to be allowed. No such appropriation of private property is to be made, except by the authority of the highest commander present; and any other officer or soldier who shall presume to exercise such privilege shall be brought to trial.

Soldiers are forbidden to enter the residences or grounds of citizens upon any plea without authority.

No arrests are to be made without the authority of the commanding general, except in case of actual offense against the Government; and in such cases the fact and circumstances will immediately be reported in writing to headquarters through the intermediate commanders.

The general reminds his officers that the most frequent depredations are those which are committed by the worthless characters who straggle from the ranks on the plea of being unable to march; and where the inability really exists, it will be found in most instances that the soldier has overloaded himself with useless and unauthorized articles. The orders already published on this subject must be enforced.

The condition and behavior of a corps are sure indications of the fitness and efficiency of its officers. If any regiment shall be found to disregard that propriety of conduct which belongs to soldiers as well as citizens, they must not expect to occupy the post of honor, but may rest assured that they will be placed in position where they can not bring shame on their comrades and the cause they are engaged in. The Government supplies with liberality all of the wants of the soldier. The occasional deprivations in hardships incident to rapid marching must be borne with patience and fortitude. Any officer who neglects to provide properly for his troops, and separates himself from them to seek his own comfort, will be held to a rigid accountability.

By command of General Buell.

JAMES B. FRY,
A. A. G., Chief of Staff.

Official.

J. M. WRIGHT, *A. A. G.*

From the date of the foregoing proclamation until the end of the war Nashville and the country north of that place, in Tennessee, was under the control of the Federal Army, and the civil authorities, including the courts, local and Federal, were in the full and free exercise of their functions and jurisdictions. These results were the fruits of the proclamation of General Buell restoring that part of Tennessee to national authority and giving "the full measure of protection to persons and property consistent with a necessary subjection to military government."

The proclamation of Major-General Butler, when he occupied New Orleans, on the 29th of April, 1862, after announcing that the city was under martial law and the principles by which the commanding general would be guided in its administration, contains this clause of protection: "All rights of property of whatever kind will be inviolate, subject only to the laws of the United States." In the case of The Venice, 2 Wallace, 258, the Supreme Court of the United States decides that this clause "only reiterated the rules established by the legislative and executive action of the National Government in respect to the portions of the States in insurrection occupied and controlled by the troops of the Union." In the same opinion the Supreme Court says further: "The same policy may be inferred from the conduct of the war. Wherever the national troops have re-established order under national rule, the right of persons and of property have been, in general, respected and enforced. When Flag-Officer Farragut, in his first letter to the rebel mayor of New Orleans, demanded the surrender of the city, and promised security to persons and property, he expressed the general policy of the Government. So, also, when Major-General Butler published his proclamation and repeated the same assurance and made a distinct pledge to neutrals, he made no declaration which was not fully warranted by that policy. There was no capitulation. Neither the assurance nor the pledge was given as a condition of surrender. Both were the manifestation of a general purpose, which seeks the re-establishment of national authority and the ultimate restoration of States, and the ultimate restoration of States and citizens, to their national relations under better forms and firmer guaranties, without any views of subjugation by conquest."

There was no formal military surrender either of New Orleans or Nashville, but in Nashville there was no formal submission of the local civil authorities to the national authority, while in New Orleans the mayor refused to give the pledge of such submission. "There was no capitulation, neither the assurance nor the pledge was given as condition of surrender," in either case. The orders of General Buell were much broader and more definite than those of General Butler. They reached to the conduct of officers and men of his army and put them under express injunctions against all interference with the property and homes of the people who would remain peaceable, and expressly provided for compensation for all property taken for public use.

Your committee are impressed with the conviction that the orders of General Buell (above copied), while in the military occupation of Nashville, which was not "illusory, not imperfect, not transient; but substantial, complete, and permanent," drew after them "the full measure of protection to persons and property consistent with a necessary subjection to military government," and that the citizens of Nashville who remained peaceable during such occupancy, and their property, can not be regarded as remaining enemies, or their property as enemies' property, after the 26th of February, 1862, by intendment of law. They

were protected against this condition by the proclamation of General Buell.

This view seems to derive much additional force from the proclamation of the President, dated August 16, 1861, in which he limits the declaration that certain States and parts of States are in rebellion, as follows:

> Except the inhabitants of that part of the State of Virginia lying west of the Alleghany Mountains and of such other parts of that State, and other States hereinbefore named, as may maintain a loyal adhesion to the Union and Constitution, or may be from time to time occupied and controlled by forces of the United States engaged in the dispersion of said insurgents.

The generals of the Army, including General Buell and his successors, permitted this loyal status of the people of Nashville to remain, and followed the avowed policy of the Federal Government in their dealings with them as declared in the case of *The Venice.* Many houses of citizens and some of the churches were used for Army purposes, but they were paid for, or quartermasters' vouchers were given for their use.

In this way the public pledges of General Buell were faithfully observed; the people engaged freely in their business pursuits; the courts were opened and the civil administration of the laws prevailed so far as was "consistent with a necessary subjection to military government."

This condition of the national authority in Nashville, during its military occupation by the Federal Army, is satisfactorily established by the history of that property, the use of which by the Army quartermasters is the foundation of this claim.

On the 24th of May, 1862, a libel of information was filed by the United States district attorney in the circuit court of the United States to sequester, and condemn, and sell, and to confiscate the proceeds of the property, real and personal, for which the corporation called the "Book Agents of the Methodist Episcopal Church South" is claiming rent, and also compensation for such of it as was consumed in the use, or was lost, wasted, injured, or destroyed.

The record of the proceedings in said cause is appended to this report, and is marked Exhibit 1. Under a warrant of arrest issued in pursuance of the prayer of the libel on the 24th of May, 1862, the marshal of the United States arrested the property described in the libel, and indorsed the arrest on the warrant which he returned to the circuit court.

On the 3d of June, 1862, the "Book Agents of the Methodist Episcopal Church South," by that name interposed its claim to the property arrested in the circuit court; gave security for costs; asked to be allowed to intervene for its alleged rights of property and possession, and to plead to and defend against the libel and to replevy the property so arrested and seized, and the court granted the prayer of the petitioner.

The bond to replevy the property was filed on the 4th of June, 1862, in the sum of $60,000, with two sureties.

On the 27th of June, W. R. Elliston, one of the sureties, applied to the court to be released from the bond for the following reasons set forth in his affidavit: "He states that said co-surety (R. Abbey) has rented out some of the machinery, including a press and type, etc., to other persons without deponent's consent or knowledge and against his wish, and he fears that it will be so used that if destroyed or misused he will be liable upon his bond without his consent to the misuse. He is willing to remain liable for the forthcoming of the property if he and his co-surety can be permitted to hold it in the state in which it was when seized in this case. But his co-surety has not so acted, and has

placed a part of the property beyond his own control, where it may be destroyed and deponent made responsible for the acts of others and against his consent." These statements relate to the fact that R. Abbey, as the agent of the defendant corporation, after the property had been so replevied, had consented or acquiesced in the taking of certain presses and type, lathes and tools, for the quartermasters of the Army, which were taken to the front to be used to do printing and other work for the Army near its lines, then advanced far to the south of Nashville.

On the 28th of June, 1862, Justice Catron, presiding in the United States circuit court, at Nashville, after notice had been served on said Abbey, as agent, etc., heard said motion and entered the following order:

On consideration of the matters founded on this affidavit I refuse to release William Ellison as a surety to this bond.

J. CATRON,
Presiding Judge.

JUNE 28, 1862.

On the 24th of April, 1864, an amended information was filed in said cause by the district attorney of the United States, and a second seizure of the property was made or indorsed on the process. This was a seizure *pro forma*, to secure regularity in the proceedings.

Answers, pleas, and demurrers were filed in the cause, as well by the said corporation as by other intervenors who were admitted to defend the suit for such interests as they claimed respectively. Issues were formed on these several pleas. Afterwards the case was continued by the United States, at the request of the Attorney-General, from term to term, until the 13th of November, 1865, when it was dismissed by the direction of the Attorney-General of the United States. The said Attorney-General says he will no further prosecute herein. And the court imposed certain costs and allowances on the defendants, and certified that there was probable cause for the seizure of the property, thereby certifying to its legality when it was made.

After General Buell entered Nashville the corporation of "Book Agents," etc., continued its business of publishing books, tracts, etc., and doing job work for its customers until the property was arrested under the libel proceedings above referred to; and after the property was replevied it still continued its business. Some of its lathes, presses, types, cases, and tools suited for detached job offices and some other machinery were taken by the quartermasters of the Army, as before stated. With this exception the property remained in the custody of the bailee, the defendant corporation, until on or about January 1, 1864, when the entire establishment, the house and all its contents, were taken possession of by Col. J. D. Donaldson, chief quartermaster of the military Department of the Cumberland, by order of Maj. Gen. George H. Thomas, commander-in-chief of the department, for the use of the Army of the United States, "as confiscable property, and so held and used until the 13th of December, 1865, when what remained of it was returned to said "Book Agents." The following extract from the report of the chief quartermaster of the Department of the Cumberland, dated June 30, 1865, sets forth the circumstances under which the seizure was made:

UNITED STATES PRINTING-HOUSE.

"The Methodist Publishing House," confiscable property in the city of Nashville, was taken possession of in January, 1864, by order of Maj. Gen. George H. Thomas, commanding the department, and used as a Government printing-house. The operations of the establishment up to June 30, 1864, were given in my last annual report. During the year ending June 30, 1865, over 5,300,000 impressions were made; 4,352 forms printed; 101,000 quires of paper used; 223,000 quires of blanks furnished, at a

ıe proceedings in this case of libel for confiscation were conducted as much regularity, and with as little interruption, as if they had instituted in a court of New York. Justice Catron presided in his ıit court at Nashville, from term to term, with as little obstruction as little threat from the enemy as he did in the Supreme Court at hington.

hatever theories may be advanced, and with whatever skill they be supported, as to the legal status of the people of Nashville, the remains that the national authority was actually enforced there ıgh the national courts, and they administered the laws, local and ›nal, so far as applicable to controversies between citizens, as com- ıly and effectively within the territory protected by the Federal es as could have been done in any loyal State. This condition of ›ountry included within the operation of General Buell's orders d of itself give to the people there the same protection under the of the United States that is so distinctly provided for in the terms e order, viz: "If the necessities of the public service should require ıse of private property for public purposes, compensation is to be ɾed."

ıis law of compensation declared by General Buell is the same that ınd in the Constitution of the United States, and in all States regu- g the right of eminent domain. This is not the rule that governs ses of capture or seizure *jure belli*. In such cases the property is n without reference to compensation. The order of General Buell provides that "no such appropriation of private property is to be ɜ except by authority of the highest commander present," thus cut- off all right to make a capture of private property in Nashville the date of the order, except on the conditions named in the order by the express order of the highest commander.

ı the 24th of May, 1862, there was nothing in the military or politi- ituation at Nashville, or in the condition of the people, or in the ition of the property of the book agents' corporation, to prevent

which the United States had acquired any interest otherwise than by virtue of those statutes.

Those statutes provide only for condemnation of the property in the courts of the United States after a trial duly had.

They furnish no authority for appropriating the property of rebels without due course of law. The Army can not enforce these statutes except in aid of the powers and proceedings of the courts. It certainly can not exercise jurisdiction under the confiscation laws so as to oust the circuit courts of the United States of a jurisdiction acquired and exercised over property seized under their orders on libels of information.

The following records from the War Department disclose the grounds on which the seizure of the claimants' property was made by order of General Thomas:

HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,
Chattanooga, Tenn., December 28, 1863.

COLONEL: It has been for a long time in contemplation at these headquarters to make an Army printing-office of the Methodist Publishing House in Nashville.

The house has been confiscated by the United States Government, and is represented as being in every way eligible for the printing of blanks and orders and the binding of the same, and by being run by the Government would save from $25,000 to $30,000 per year to the Government, without counting loss of time in getting work beyond the Ohio.

The major-general commanding desires that you will examine into the feasibility of the plan of using the office for doing all sorts of printing for the Army, and report upon the same.

Very respectfully,

——— ———,
Assistant Adjutant-General.

Col. J. L. DONALDSON,
United States Quartermaster, Nashville.

CHIEF QUARTERMASTER'S OFFICE,
Nashville, Tenn., January 6, 1864.

GENERAL: In obedience to the order of the major-general commanding, I have had the Methodist Book Concern in this city examined, and find it suitable for the Army printing, and have accordingly directed Capt. J. F. Isom, acting assistant quartermaster, to take possession of it for that purpose.

I am, general, very respectfully, your obedient servant,

J. L. DONALDSON,
Senior Quartermaster

Brig. Gen. W. D. WHIPPLE, *A. A. G.*,
Chattanooga, Tenn.

HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,
Chattanooga, January 27, 1864.

Lieut. Col. J. L. DONALDSON,
Senior and Supervising Quartermaster:

The major-general commanding directs that you seize the establishment in Nashville known as the Methodist Printing House, and that you prepare it as early as possible for the printing of forms and binding of books of all kinds required by this army, particularly at those headquarters, such as muster-rolls, returns, record-books for department, corps, division, and brigade headquarters.

Very respectfully, your obedient servant,

W. D. WHIPPLE,
Assistant Adjutant-General.

The letter to Colonel Donaldson, United States quartermaster, asserts that "the house has been confiscated by the United States Government." Such was not the fact, however, as it had only been libeled for confis-

cation, and was in the custody of the court through its bailees at the time when General Thomas ordered its seizure. It is therefore clear that the United States never made a capture of this property. General Buell's order prevented it from capture and seizure, and General Thomas, whatever may have been his power over the property to withdraw the protection of General Buell's orders, did not withdraw such protection. To the reverse, he assumed that it had been confiscated by the Government, and was Government property, and took it into possession as such, as being "in every way eligible for the printing of blanks, orders," etc. It was not seized with reference to its usefulness in any tactical or strategic sense with reference to Army movements. Such a seizure could not oust the circuit court of the United States of its rightful custody and control of this property, and added nothing to the right or authority of the Government in its disposal.

The seizure was made by the commanding general for the convenience of the civil department rather than of the Army, and to save money to the Government in printing for the use of a military department and the Army. The law of military necessity did not apply, but whether or not it was applicable, the protection given by the proclamation of General Buell, by the President's proclamation, and by the custodianship of the property in the hands of the circuit court (either, and certainly all together), places this property beyond the reach of the ordinary rules which apply to enemies' property. When the Government gives such protection to property, it assumes to pay for the use of it, if any urgent necessity requires it to apply the property to the public use. Under such circumstances, the property being relieved by the act of the Government from liability to military capture, the seizure of it, even if it was a military seizure, made by competent authority, was an exercise of the right of eminent domain, which is never exerted except upon the condition prescribed in the Constitution, that just compensation shall be made to the owner.

The application of this provision of the Constitution is not affected by the fact that the seizure was made by a military government. Conceding as a fact that which does not appear to be true, that civil government in Nashville at the time of the seizure of this property was not in full and effectual operation, the military government there, when it undertook to enforce the confiscation of property for the crimes of its owners, under the authority of the statutory laws of the United States, was bound also to respect the Constitution of the United States in the administration of those laws. But there should be a very clear and very grave necessity to justify the Army or a military government in taking property from the lawful custody of a court of the United States. It is to be presumed that the court would surrender the property so in its custody to the Army whenever the necessity was shown to exist, but it should never be held that when a court holds property in its custody for the adjudication of the question whether it is forfeited to the Government for the crime of its owner, the Army or a military government can take the property from the custody of the court and appropriate it to the Government as confiscated property. The court alone can render judgment of forfeiture in such cases, and can alone proceed to condemn and confiscate it, and when it is proceeding to adjudicate in such a matter, and is in the full and free exercise of its lawful authority, neither prevented nor controlled by any cause from discharging its duty, no other authority can take the matter out of the hands of the court and proceed to render judgment, or declare, in any form, that the property is confiscated. Congress could not do so much, and it is not possible

that a military government, while acknowledging the laws of the United States, can lawfully exercise such authority over a court of the United States.

And yet this is the precise attitude of this matter. The property was seized by order of General Thomas, the major-general commanding the department of the Cumberland, as confiscated property, while the United States was suing in its own courts for its condemnation, and it was not released by the Army officers until after the suit had been dismissed and after peace had been proclaimed in Tennessee by the President, when it was "turned over to the Bureau of Refugees, Freedmen, and Abandoned Lands, as no longer needed for the public service."

Judge Catron refused to discharge a surety on the replevy bond, because the "book agents'," etc., corporation had consented to the use of some of the property by Army quartermasters, thereby holding that the bond was a valid obligation, and that the property was in lawful possession and control of its lawful bailee. His ruling was, in effect, that property in the situation of this property was not subject to the supreme control of martial law, so that the mere taking of it by a quartermaster, under the orders of a military commander, would exonerate the sureties of the bailee from responsibility for its forthcoming.

Judge Catron did not think that the taking of this property in its then situation was a taking under the law of necessity, or under the domination of military force to which the civil power could properly yield, so far, at least, as to surrender its jurisdiction over the property.

In this matter, as well as in the final disposal of the case, and especially in the order made at the request of the Government to enter judgment of *nolle prosequi* in the proceedings, and in certifying to probable cause for the proceedings, so as to protect the informer against damage for an unlawful seizure, and in the imposition of costs on the claimants personally, for which execution was ordered to issue, the circuit court of the United States asserted its jurisdiction, and maintained it over this property continuously from the moment it was seized until it was released by its final judgment. It never admitted that its powers of jurisdiction during this period had been suppressed by martial law, nor that, by any lawful exercise of military force, its custody of the property had been broken. This is the more certain and plain when we recur to the fact that its jurisdiction under the libel was *in rem*, and not merely *in personam*. This is true, not only in consequence of the nature of the proceedings under which the property was seized, but also for the reason that the statutes, known as the confiscation laws, create a forfeiture of the title of the property to the United States for the offense of the owner, or for the offensive use of it by any authority, with the consent or acquiescence of the owner or his agent.

In such cases, and under such proceedings, the Government simply proceeds to assert, through its judicial tribunals, its title to the property, and to dispose of it according to its laws. The jurisdiction of the circuit court did attach on the filing of the libel, and could only be exerted by the arrest of the property, which is an indispensable prerequisite of the exercise of such jurisdiction. The property was arrested under process of law in all respects regular, and the court maintained its custody of the property by express orders, until it finally decided the cause.

This cause proceeded from its beginning to its end, so far as the circuit court of the United States was concerned, just as it would have been conducted in any State not included within the insurrectionary territory.

It is difficult to perceive why the judgment is not equally conclusive, though it was rendered in Tennessee. The court found no impediment to its initiating the suit, or in the execution of its lawful process therein, in exerting its power in continuing the cause, in maintaining its authority, or in making its final orders. The United States attended regularly in court to prosecute its suit through the entire proceeding, and made no suggestion that the Government had relieved the court of its jurisdiction over the property by having interposed the superior power of martial law. The Government, on its own motion, continued the cause in court, thus constantly maintaining the jurisdiction of the court over the property. This jurisdiction was not released, or in any way impaired, but was rather confirmed by the fact that the court had permitted a claimant to replevy the personal chattels included in the arrest or seizure. A bond was interposed and sureties were provided for the return of the property to answer the judgment to be rendered in the cause. Such a bond has no other effect than to change the custody of the property from the marshal to the special bailees. They hold it for the court, and must surrender it to the court when required, and are subject to punishment for their refusal to do it. They are liable also for injury and loss to the property while in their custody. Their custody is the custody of the court, and while it lasts the property is *in gremio legis*. The court may require the bailees to pay rent for the property while it is in their custody, if it is finally condemned. In every respect, therefore, the circuit court of the United States at Nashville had the authority to proceed to final judgment upon every question touching the ownership of this property and its confiscable character. It did proceed to judgment on that subject, at the instance of the United States, and it must be now considered that the United States did not own this property at the time that its Army seized it in January, 1864, or else it waived and solemnly abandoned its right.

The Government has admitted by its refusal to prosecute the suit, and the court has decided, that this property never was forfeited to the United States by the crime of its owners.

The judgment of *nolle prosequi* rendered at the instance of the Government, in which costs are imposed, is not merely an act of amnesty. It is a judgment upon its confession, either that it never had the right to condemn this property or that it was unwilling to assert its right to condemn it, and waived it on condition of the payment of costs by the intervenor. And it must have been for this reason that Justice Catron entered the order that there was probable cause for the prosecution, but not actual cause. The United States is conclusively bound by that judgment, so that none of its courts can now condemn the property, and so that Congress should not assume that it should have been condemned. This view of the matter seems to dispose of it so far as the right of the parties to the property is concerned.

A final judgment of discharge of the property seized for confiscation is as conclusive of the title as a judgment of condemnation would be, because such a judgment binds the courts. Chief-Justice Marshall, in Williams *vs.* Armroyd (7 Cranch, 432), says:

> It appears to be settled in this country that the sentence of a competent court, proceeding *in rem*, is conclusive with respect to the thing itself, and operates as an absolute change of property. By such sentence the right of the former owner is lost, and a complete title given to the person who claims under the decree. No court of co-ordinate jurisdiction can examine the sentence. The question, therefore, respecting its conformity to general or municipal law can never arise, for no co-ordinate tribunal is capable of making the inquiry.

The military authorities never seized the property as "captured or abandoned property," but as confiscable property; and in June, 1865, by order of General Thomas, it was "turned over to the Bureau of Refugees, Freedmen, and Abandoned Lands, as no longer needed for the public service."

In any view of the case the property remained the property of the "book agents," etc., corporation, and the ownership was not changed by either the legal or military custody to which it was subjected.

The Government of the United States under its laws, duly enforced through the judicial department, arrested and seized as its own the property of the claimant, and put it in charge of the claimant under bond and security as the bailee of the court which became its custodian, and under the further pledge of the laws and the court that the property should be returned to the claimant at the end of the suit if the Government should not make good its assertion of title. And the Government, with its military arm, took the property out of the custody of the law, in which it was held to answer judicial proceedings for its confiscation, for the purpose of enforcing the same statutory right of confiscation by the mere order of a military commander; used it for its own purposes, in which use it was greatly damaged, and returned a part of it to the claimants, much of it having been lost, consumed, and wasted in the use that was made of it. This property having been seized by the court, and also by the Army, for the purpose of confiscation, and not in the assertion of a title by capture, conquest, or other mere right of war, we are relieved from further inquiries into the questions whether the general commanding the Department of the Cumberland could lawfully have captured the property situated as this was, and could have used, converted, or destroyed it at his pleasure, and could also have deprived the claimant of the right of just compensation for it under the Constitution. The property of a citizen in the custody of a court of the United States as confiscable property, can not be taken out of that custody by the executive power for the same purpose without imposing on the Government the duty of paying for the use of it, and for such damage or loss as the owner may sustain by reason of such intrusion upon the property as well as upon the authority of the court.

The testimony in support of this claim is the best and most satisfactory the nature of the case admits of, except that the witnesses have not been subjected to cross-examination. The witnesses are well known, or well vouched for, as men of good standing—the agent, the head clerks in the different departments, engineers, master-mechanics, bookkeepers, and other men employed in the house, each testifying to matters under his own supervision. The values of the different kinds of property taken are necessarily inexact, being estimates made up by experts from such data as existed—books, invoices, etc. But there was no sufficient opportunity of taking an inventory of the property itself, the actual possession being taken with but three hours' notice in the bad weather of midwinter. It was a very large printing establishment, and run by steam-power. It was amply supplied with machinery, presses, type, material for stereotyping, lathes, and tools, and had a large stock of paper suited for book and job printing, besides much other material for binding books, and the many appliances which belong to such establishments. It was the largest printing and publishing house south of New York, except the Government Printing Office in Washington. Its capacity is shown by the very large results set forth in the report of the quartermaster of the Department of the Cumberland above copied. Over 5,300,000 impressions were made in one year, and 4,352 forms were

printed, 101,000 quires of paper were used, and 223,000 quires of blanks were furnished in the same period. The cost of all this work to the Government was only $29,261.40. The average saving to the Government, taking Cincinnati, Chicago, Pittsburgh, and Nashville prices, was 82½ per cent. The actual saving was fully 100 per cent., according to the quartermaster's estimate. The committee understand this statement in the report of the quartermaster to mean that the Government gained a clear profit in the use of this printing house and machinery, and of the material found there, of the entire amount of the work turned out. This was a large sum of money, all of which the claimant could have made if the property had been allowed to remain in its possession. Besides this, the presses and machinery were used so constantly, and were run at such a high rate of speed as greatly to damage them. A large amount of books in the store-rooms were lost or seriously damaged. The stores were taken to house the quartermaster's property, and the claimant was driven out.

While there is not seen by your committee any necessity—certainly no pressing emergency—that this printing establishment should have been taken possession of and conducted by the Army, there was very great and apparent necessity that it should be used for the benefit of the Army, for there was no other property in the country nearer than the Northern cities that would be at all adequate to those necessities; and that it was of great service to the Army is abundantly apparent. General Clinton B. Fisk, of New York, who was intimately conversant with this property and the use the Army made of it, states as follows:

ATLANTIC AND PACIFIC RAILROAD COMPANY,
Drexel Building, New York, April 9, 1874.

MY DEAR SIR: In response to your favor of the 8th instant, I beg leave to say that I was assigned to duty in Nashville, Tenn., in April, 1865, and was in command of the district of Tennessee a part of that and the following year. I was also assistant commissioner of the Freedmen's Bureau, and gave the order (under direction of my superior officer) for the restoration of the property of the Methodist Episcopal Church South to its rightful owners. I was familiar with the facts presented in your memorial to Congress, asking consideration of your claim, and do not hesitate to say that your representations are correct, and the demands of the church you plead for are reasonable. I hope the Committee on War Claims will recommend such award in this case as justice to the multitude of men, women, and children interested in the claim demands. The committee is composed of eminently fair-minded, just, and able men, who will doubtless give this important matter such consideration as it deserves.

Yours truly,

CLINTON B. FISK,
Late Brevet Major-General, U. S. Volunteers.

To Rev. R. ABBEY,
Washington, D. C.

A portion of the building was torn down to arrange for more convenient access to the printing-rooms. Job-offices, consisting of types and presses, were taken away and not returned, and so of lathes and other tools.

Your committee are informed, through the agents of the claimant, that it is willing to accept $288,000 in full discharge of all liabilities of the Government. The payment of this sum would probably do the Government no injustice if the allowance to be made is placed on the footing of compensation to be awarded for all the damage done the claimant's property and all the profit it could have derived from its use in job-work for the Army.

This is the sum that remains after reducing the price for the rent of the machinery, etc., below the estimates of the witnesses from 25 per cent. to 20 per cent. of its cost, which is the lowest sum named in the

testimony by any of the experts, and reducing the amount claimed for injury done to the property from 50 per cent. to 20 per cent., which is less than half the amount named by any of the experts, and by reducing the charge for merchandise used, etc., from 50 to 25 per cent. Your committee think it more in accordance with a wise and just policy in such cases to make reasonable restitution rather than to enter into an accounting of losses and damages, or of profits that might have accrued to the claimant if there had been no disturbance of its business. In this case there was no wanton destruction of property. There was much unavoidable loss to the claimant, which resulted in no benefit to the Government. The claimant sustained other serious losses by the alteration of the buildings to adapt them to the purposes of the Quartermaster's Department.

The sum of $288,000, with the present purchasing power of the national currency, would provide a fair means of restoration to the "Book Agents" corporation of the foundation of this charity, and would be, as we understand the proof, a less sum than was saved to the Treasury in the use of material, machinery, houses, and the appliances of this great printing-house. This sum is much below the lowest estimates of any of the witnesses as to the losses actually sustained by the claimant, and would not be adequate compensation if measured by such a standard. But with the prudent use of this sum, at the present prices of property, it is believed that this public charity can be re-instated.

The following statement, made in the petition, your committee find to be correct, viz:

The delay in presenting this claim was unavoidable. The entire business is under control of the general conference, which meets only quadrennially. At its session in 1866 we were advised by counsel to let the matter rest until the affairs of the country should become more settled.

At the conference of 1870 an agent was appointed, but his failing health and inability to spend the necessary time in Washington caused further delay, when the present agent was appointed. The claim was presented to the second session of the Forty-second Congress in December, 1872, but we could not get a report from either of the committees of that session.

On the assembling of the Forty-third Congress our claim was in the hands of the House of Representatives on the day of its organization, but we utterly failed to get a report from the Committee on War Claims, to which it was referred, until one or two days before the close of the first session. Then we have four different reports—one of them stating but little else but that the case had not been fully examined by the committee; another that it was inexpedient *now* to pay the claim; and one favorable and one unfavorable, for reasons stated.

In the second session of last Congress it is well known that little or no business of this character was acted upon, nor could we get our claim before the House.

The loyalty or disloyalty of the claimant, its agents, its membership, or its beneficiaries, does not appear to your committee to be a necessary inquiry in this case.

The Government, acting under its own civil statutes and through its courts in the confiscation of property, puts in issue the only phase of the disloyalty of a citizen which affects his right of property.

The decision of the court that the property is not confiscable is a decision that such person owns and has the right to enjoy it. And the refusal of the United States to proceed under the statutes to get a decree of confiscation on a libel filed for that purpose, which is ended with a nolle prosequi, is a final declaration that the Government will not claim the forfeiture. No treasonable use could have been made of this property by the agents of this corporation which would not have been a gross violation of their authority. They could not impress the property of this charitable institution with their crime so as to render it liable to forfeiture. There was no law to justify the circuit court of the United

States, at Nashville, in withholding the property of the claimant when it was not condemned. If it had rented out the property, or sold it, the right of the claimant to the rental, or the proceeds of the sale, would be unquestionable.

The Government can refuse to pay a person who was disloyal any debt it may owe such person, but this discretion should be exercised with wisdom, and for the highest reasons of public policy. Your committee do not believe that public policy or public sentiment requires Congress to refuse to restore this charity.

This corporation was chartered by the legislature of Tennessee 25th of February, 1856, "for the manufacture and distribution of books, tracts, periodicals," etc., "under control of the said Methodist Episcopal Church South, according to the laws and usages of the same, as contained in their present or in any future edition of their Discipline."

It was intended, in the broadest sense, to be an eleemosynary institution through which there could be furnished at very low rates, and also gratuitously, religous literature and school-books to the people. There was no stock of the corporation, and all its increase was to be and was devoted to increasing the usefulness of the charity. The means placed within its control, from whatever source they were derived, were dedicated to the purposes of its foundation. The ecclesiastical body known as the "Methodist Episcopal Church South," which was also a legal corporation, selected the persons to conduct the business of the "Book Agents," etc., corporation, and give general direction to its operations. The discipline of the church referred to in the act incorporating the "Book Agents," etc., is the authentic declaration of the relations of the church to the government. Nothing but the authority that is competent to change this discipline can alter these relations. They have been the same for nearly a century, and were not altered as to either branch of the church by the unfortunate division that occurred in 1845.

These relations conform to and correspond with the constitutional declarations on the subject, leaving no room for any agent of the church, in any way, except by obedience to lawful authority, to participate officially in any matter relating to the government of the country.

When the war commenced, this church found its territorial boundaries cut in twain by the operations of the armies, so that nearly equal portions of it were on the opposing sides. In this emergency it sought to preserve its relations to the Government of the United States, so as to avoid the embarrassments of the war. The deposition of the Rev. Thomas M. Finney on this subject gives a full account of this matter, and is as follows:

STATE OF MISSOURI, *County of*——:

Personally appeared before the undersigned, Joseph E. McGinnis, notary public for St. Louis County, Mo., Thomas M. Finney, a man well known to me, who, being duly sworn, deposes and says he is a minister of the gospel in the Methodist Episcopal Church South, and is and has been since the year 1851 a member of the St. Louis Conference of said church. That in the year 1863, seeing the course the war of the rebellion was taking in most of the Southern States, and that a considerable portion of the ministers and members of his said church lay in that direction, said affiant, with other loyal ministers and members of said church, felt great fear and apprehension lest in some way the war might work a real or apparent disturbance or disruption of the relations heretofore existing between said church and the Government of the United States; that, as said affiant understood and believed, some of the leading members and ministers of said church consulted with able lawyers and were advised thus what they had best do, in the then anomalous circumstances of war and general disturbance. Affiant further states that, as he understood and believes, the most suitable measures practicable were adopted under and in pursuance of such

legal advice above alluded to, and conformable as near as practicable to the usage and custom of said church. A general convention of said church was advertised and called to be holden in the city of Louisville, State of Kentucky, on the 6th day of April, 1864, and that the following-named conferences of said Methodist Episcopal Church South appointed delegates to said convention in the usual way or as nearly so as practicable, to wit: the Kentucky and Louisville Conference, comprising the State of Kentucky; the Western Virginia Conference, comprising the western part of the State of Virginia; the Holston Conference, comprising parts of Virginia North Carolina, and Tennessee; the Tennessee Conference, comprising most of the State of Tennessee except the western portion; the Memphis Conference, comprising West Tennessee and North Mississippi; the Missouri and St. Louis Conferences, comprising the State of Missouri; the Arkansas Conference, comprising the State of Arkansas; and the Indian Mission Conference, comprising Western Arkansas and the Indian Territory west thereof. The said delegates representing said conferences met at the appointed place in the city of Louisville on the said 6th day of April, 1864, and organized themselves in the usual way, or as nearly so as practicable, into a general convention of the Methodist Episcopal Church South. The said convention in the regular way appointed this affiant its secretary, in which capacity he then and there acted. The late Rev. Charles B. Parsons, D. D., of Kentucky, was in like manner chosen and acted as president of the convention. The convention declared itself to be "delegates to the convention, and representing loyal members of several conferences of the Methodist Episcopal Church South," and that said delegates "do hereby, in the name of and for the loyal members of several conferences of the Methodist Episcopal Church South, assert their right to and claim possession of and the administration of said property for the original foundation of said charity," meaning the Southern Methodist Publishing House, then in charge of Rev. Richard Abbey, financial secretary thereof, and situated in the city of Nashville, Tenn. So the said convention, in the course of its business, sitting and transacting various business pertaining to its legitimate internal affairs during three days, viz, the 6th, 7th, and 8th days of April, 1864, held and avowed itself on several occasions to be a true, legal, and loyal convention of the Methodist Episcopal Church South in and under the Government of the United States, and holding and affirming its original relation thereto. The said convention, in the name and on behalf of the Methodist Episcopal Church South, of which it was a delegated convention, memorialized the President of the United States on matters of interest to said church; which memorials, as far as is known to this affiant, were duly and respectfully considered.

THOMAS M. FINNEY.

Sworn to and subscribed before me this 26th day of November, A. D. 1872.

JOSEPH E. MCGINNIS,
Notary Public, St. Louis County, Mo.

This action of the convention at Louisville was afterward fully ratified and confirmed by a general conference of the representatives of the entire church, held at New Orleans, in May, 1866, as is more fully seen by the following extract from the journal of said general conference, at pages 90 and 91, viz:

Reports Nos. 2 and 3 of the committee on books and accounts were taken up and adopted, as follows:

2. In regard to sundry papers sent to this committee referring to the action of a convention of preachers held in Louisville, Ky., in April, 1864, and to the action of certain commissioners appointed by that convention, we respectfully report: That, in view of the fact that the members of that convention, representing eight annual conferences, together with the commissioners appointed by them, were acting with the sole design to protect and preserve to its lawful owners the property of the church; and in view of the further fact, that the convention and its commissioners did much toward the accomplishment of that very desirable end, the committee recommend that the general conference approve the action and object of said convention, and also direct the agent of our publishing interests to pay the traveling expenses of the commissioners, and also the fee to the lawyer employed by said commissioners.

Respectfully,

D. R. MCANALLY.

NEW ORLEANS, *April* 16, 1866.

It can not, therefore, be imputed to this great ecclesiastical body that it took ground against the Government of the United States during the war. That the sympathies of many of its members were in favor of the South is not to be denied; still it is a question whether the majority of the whole body were not loyal to the Government. Very many of them

were loyal in the strictest sense of the word. But the Government of the United States can not justly or wisely adopt a policy that will take from the people, even though they were disloyal, the fruits of a charity which provides them with literary, scientific, and religious instruction, and the means of educating their children, for the purpose of enriching its Treasury. There was no such policy in the war. The arms of the United States could not have been directed against such charities as something worthy of destruction. They were restrained, rather, by section 2, paragraphs 34, 35, and 36 of General Order No. 100, which declare that—

34. As a general rule, the property belonging to churches, to hospitals, or other establishments of an exclusively charitable character, to establishments of education, or foundations for the promotion of knowledge, whether public schools, universities, academies of learning, or observatories, museums of the fine arts, or of a scientific character, such property is not to be considered public property in the sense of paragraph thirty-one; but it may be taxed or used when the public service may require it.

35. Classical works of art, libraries, scientific collections, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places while besieged or bombarded.

36. If such works of art, libraries, collections, or instruments belonging to a hostile nation or Government can be removed without injury, the ruler of the conquering State or nation may order them to be seized and removed for the benefit of the said nation. The ultimate ownership is to be settled by the enduring treaty of peace. In no case shall they be sold or given away, if captured by the armies of the United States; nor shall they ever be privately appropriated or wantonly destroyed or injured.

If reasons have heretofore seemingly existed that would justify Congress in withholding compensation to the claimant, they no longer exist in such form as to require the Government to deny an act of justice to the generation now needing the benefits of this great public charity.

The petitions laid before this committee represent that many of the people of the United States, of all sections, earnestly desire that Congress will give just relief in this matter. It is believed that no private claim was ever presented to Congress that was so extensively and earnestly supported by various memorials and recommedations. That four are from State legislatures, one from the general conference of the colored Methodist Church. Others from eight of the bishops of the Methodist Episcopal Church, viz: Bishops Morris, Janes, Simpson, Ames, Bowman, Merrill, Peck, and Haven, and many other ministers of that church. Others from the mayor and council of Nashville and of Edgefield, Tenn.; another from the governor and most of the officials, national, State, and municipal, of Nashville; another from Judge Trigg, of the United States court of Nashville; another from all the judges of the supreme court of Tennessee, with its entire bar; another from about two hundred merchants, bankers, and business houses of Nashville; another from the chiefs of the Indian nation west of Arkansas; others from all the annual conferences of the Methodist Episcopal Church South; and others from many of the leading ministers of the Methodist Episcopal Church, chiefly in New York, Baltimore, Washington, etc.; and others from nearly a hundred colleges and high schools in many parts of the country; and still others from about three thousand individual petitioners in about one hundred cities and towns in twenty-five States. These last include about one hundred and twenty governors, ex-governors, judges, and members of Congress, and fully five hundred other prominent men in civil office, the remainder being mostly lawyers, doctors, and clergymen of all denominations, and other substantial citizens, white and colored, and including all religious beliefs, Jews, Catholics, and Protestants. The papers laid before the committee substantially

support these statements. These memorials indicate a sentiment which is honorable to the people and most gratifying to all who desire that our past differences may cease to be remembered as causes of present or future discord, but may only be adverted to as admonitions to warn us against like evils.

The separation of the Methodist Church, and of the Baptist and Presbyterian Churches as well, into Northern and Southern wings, was the result of differences as to the moral and religious aspect of African slavery. It was nearly twenty years after the first fissure was disclosed in those great religious organizations until the political institutions of the country were thrown into disorder and division by the same questions. A great number of those who believed in the morality and constitutionality of slavery, did not believe that its preservation was worth the cost and suffering of war, or that secession was a rightful remedy. These were Union men as well as pro-slavery men, and when they resided in parts of the country where their views were favored, they were openly opposed to the Confederate States in the war. It is doubtful whether there was a majority of the Methodist Episcopal Church South that were, in sentiment or in political affiliation, disunionists. But however this may have been, as the division of sentiment in this great denomination of Christians was among the first heralds of approaching discord, war, and ruin, so their approaching reunion is a most gratifying proof that we have survived these dangerous troubles, and that the public sentiment, which is so perfectly reflected in their conduct and dealing with each other, has settled down with genuine satisfaction to the work of accomplishing the full and cordial reconciliation of the people throughout the country.

Your committee believe that the passage of the bill which they report and recommend will greatly encourage and assist in completing this good work. Your committee are aware that objections to this bill will be urged which are apparently strong and well worthy of consideration, but they believe that they are met by the facts and views of the law already presented in this report. Your committee do not, therefore, attempt to answer in detail these objections in this report. The majority of the committee believe that the law of the land; justice to a large and helpless class of people; a magnanimous spirit on the part of the Government towards the beneficiaries in a great charity, which has been injured through its action; popular sentiment, North and South, and the heartfelt desire of the people throughout the country for a perfect restoration of peace and amity between them, all concur in supporting the recommendation which they have the honor to submit, that Congress will pass the accompanying bill.

Your committee have anxiously considered how far their recommendations may be drawn into precedent, and become an invitation to other claimants to press upon the country their demands for indemnity for losses during the war. We believe that there can be no other case like this in its essential features. The nature of the charity, as an educational agency; its freedom from mere personal advantage to those who manage it; its usefulness in disseminating knowledge through the poorer classes of our population; and the fact that the Government in the use of its property saved a large expenditure of money which, otherwise, would have been unavoidable; and the further and important fact that when this property was seized by military orders it was in the custody of the United States circuit court, and was entitled to the protection of the law, seem to furnish reasons which are satisfactory to justify Congress in treating this as an exceptional case.

Your committee report the following proofs submitted to them, touching the material facts in the case, numbered from 1 to 20 inclusive. Other testimony was submitted, which it is not considered necessary to print:

EXHIBIT 1.

THE UNITED STATES OF AMERICA
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE, its types, &c.

Transcript of record from the circuit court of the United States for the middle district of Tennessee.

MIDDLE DISTRICT OF TENNESSEE, *ss:*

At a circuit court of the United States, begun and held at the capitol of said State, in the city of Nashville, within and for the district aforesaid, on the third Monday, being the sixteenth day of October, in the year of our Lord eighteen hundred and sixty-five, and the ninetieth year of the Independence of the United States.

Present, the honorable Connally F. Trigg, United States district judge for the several districts of Tennessee; present also, Edwin R. Glascock, marshal of said district, and Edward R. Campbell, clerk of said court.

The following proceedings were had, to wit:

On the 24th day of May, 1862, a libel of information was filed in said court, which is as follows:

Circuit court of the United States for the district of middle Tennessee.

To the judges of the circuit court of the United States for the district of middle Tennessee:

John Trimble, attorney of the United States for the said district, who prosecutes for the United States, exhibits this his libel of information against a certain lot and the buildings thereon, situated near the northeast corner of the public square in the city of Nashville, fronting on said square, being the large building adjoining the City Hotel, known as "The Southern Methodist Publishing House," in which have been printed a variety of publications, among which were the Nashville Christian Advocate, a newspaper, and the Confederate Almanac, and divers other publications; and also against all the type, presses, machinery of every description, and implements and fixtures of every character connected with the said house or lot, or attached to the property; and against all persons lawfully intervening for their interests therein.

And thereupon the said John Trimble doth allege, articulately propound, and give the said judge to understand that on the first day of January, in the year of our Lord eighteen hundred and sixty-two, at Nashville, in the district aforesaid, on land, the said property was knowingly used and employed by the owners, and with the consent of said owners of said property, in aiding, abetting, and promoting an insurrection against the Government of the United States.

First. For that heretofore, to wit, on the 1st day of January, 1862, and after the proclamation of the President of the United States referred to in the act of Congress entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861, the said property hereinbefore described was knowingly used and employed, in the district aforesaid, by the owners thereof, and with the consent of said owners, in aiding, abetting, and promoting an insurrection or resistance to the laws of the United States.

Secondly. For that heretofore, to wit, on the day and year aforesaid, at, to wit, in the district aforesaid, and after the proclamation aforesaid, the said property was knowingly used and employed by the owners aforesaid, and with the consent of the owners thereof, in aiding, abetting, and promoting persons engaged in said rebellion and resistance to the laws of the United States, in this, that at the time above specified, and at divers times previous thereto, said Southern Methodist Publishing House did publish various articles and numerous publications aiding and abetting and promoting said insurrection or resistance to the laws of the United States.

The said attorney of the United States, upon behalf of the said United States, saith that all and singular the premises are true.

Wherefore he prays that process in due form of law issue against the house and lot, type, machinery, implements, etc., to enforce the seizures, confiscations, and condemnations thereof, and requiring notice to be given to all persons concerned in interest to appear and show cause, on the return day of said process, why the forfeiture should not be decreed.

JOHN TRIMBLE,
Attorney of the United States for the Middle District of Tennessee.

On the 24th day of May, 1862, a warrant of arrest was issued, which is as follows.

MIDDLE DISTRICT OF TENNESSEE:

The President of the United States to the marshal for the middle district of Tennessee, greeting:

Whereas a libel of information hath been filed in the circuit court of the United States for the middle district of Tennessee, on the 24th day of May, 1862, by John Trimble, esq., attorney of the United States for the said district, on behalf of the United States of America, against a certain lot and the buildings thereon, situated near the northeast corner of the public square, in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as the Southern Methodist Publishing House; and also against all the type, machinery, presses, implements, and fixtures of every description connected with the said house and lot, or attached to said property, for reasons and causes in said libel of information mentioned, and praying that the usual process and monition of said court in that behalf to be made, and that all persons interested in the said house and lot, type, presses, implements, and fixtures may be cited in general and special to answer the premises; and all due proceedings being had, that the house and lot, type, machinery, presses, implements, and fixtures may be, for the causes in said libel of information mentioned, condemned, and the proceeds thereof distributed according to law.

You are therefore hereby commanded to attach the said house and lot, type, machinery, presses, implements, and fixtures, and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned as forfeited and the proceeds thereof distributed according to the prayer of the said libel of information; and that they be and appear before the said court to be held in and for the middle district of Tennessee, on the first Monday, being the 6th day of October next, in the forenoon of that day, then and there to interpose a claim for the same, and to make their allegations in that behalf; and what you have done in the premises do you then and there make return thereof together with this writ.

Witness the honorable Roger B. Taney, chief-justice, at Nashville, in the middle district of Tennessee, this the 24th day of May, in the year of our Lord 1862, and of the Independence of the United States the eighty-sixth year.

{ SEAL OF THE U. S. CIRCUIT COURT MIDDLE DISTRICT OF TENNESSEE. } HORACE H. HARRISON, *Clerk.*

Upon the back of the said warrant of arrest is indorsed the return of the marshal, which is as follows:

Came to hand the same day issued. In obedience to the within warrant I have arrested a lot with the buildings thereon, situated near the northeast corner of the public square, in the city of Nashville, fronting on the public square, and known as "The Southern Methodist Publishing House," and all the type, machinery, presses, implements, and fixtures of every description connected with the said house or lot, or attached to said property within mentioned, and have cited all persons having or pretending to have any right, title, or interest therein, as by said warrant I am commanded to do.

Dated at Nashville the 26th day of May, 1862.

E. R. GLASCOCK,
United States Marshal Middle District Tennessee.
By W. LELLYETT,
Deputy Marshal.

On the 3d day of June, 1862, a claim was filed in said court, which is as follows:

THE UNITED STATES
vs.
A CERTAIN LOT AND THE BUILDINGS THEREON, SITUATED near the northeast corner of the public square, in the city of Nashville; fronting on the public square, being the large building adjoining the City Hotel, and known as "The Southern Methodist Publishing House," and all the type, machinery, presses, implements, and fixtures of every description connected with the said house or lot, or attached to said property.

The "Book Agents of the Methodist Episcopal Church South," a corporation created for literary and religious and charitable purposes by the legislature of the State of Tennessee, by act passed the 26th February, 1856, chapter 136, sections 1 and 2, through Richard Abbey, one of its authorized agents, states that the said corporation

is the true and *bona fide* owner of all of the aforesaid property above described and seized under and by virtue of the warrant in this case, and that no other person is the owner thereof; that the place of business of the said corporation is the city of Nashville, in the State of Tennessee, and that the said Abbey is a citizen of the United States and of the State of Tennessee.

And the said corporation, Book Agents of the Methodist Episcopal Church South, pray to be made a defendant to this cause, being the claimant of said property, with leave to file any plea, answer, or demurrer to the proceedings, or to make any such motions as may be advised by its counsel.

The personal property seized in this cause would not probably sell for more than sixty thousand dollars, but its actual value cannot be accurately stated.

The said claimants pray to be allowed to file the bond specified in No. 9 of the rules of this court, and to replevy said personal property according to said rules, and to be restored to the use and occupation of said real estate.

Personally appeared in open court Richard Abbey and made oath that the facts set forth in the foregoing statements are true to the best of his knowledge and belief; that he is agent of claimants, "Book Agents of the Methodist Episcopal Church South," and fully authorized to file the above claim.

R. ABBEY.

Sworn to and subscribed before me this 3d day of June, 1862.

H. H. HARRISON, *Clerk.*

On the 3d day of June, 1862, a bond for costs was filed by claimants, which is as follows:

Know all men by these presents, that we, R. Abbey, agent, and John W. Hunter, are held and firmly bound unto the United States of America in the sum of two hundred dollars, lawful money of the United States, to be paid to the said United States, for which payment well and truly to be made we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated this 3d day of June, 1862.

Whereas an information has been filed in the circuit court of the United States of America for the district of Middle Tennessee, at Nashville, on the 24th day of May, 1862, by John Trimble, esq., attorney of the United States for the district aforesaid, against "The Southern Methodist Publishing House, its type, machinery, implements, and fixtures," more particularly described in the information and monition in the above-entitled suit, for reasons and causes in the said information mentioned, and praying that the same may be condemned as forfeited to the uses in said information specified.

And whereas, also, a claim has been filed in said court by R. Abbey, as agent of "The Book Agents of the Methodist Episcopal Church South," "alleging that they are the owners of the said lot and buildings thereon, situated near the northeast corner of the public square in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as 'The Southern Methodist Publishing House,' and all the type, machinery, presses, implements, and fixtures of every description connected with said house or lot, or attached to said property."

Now, therefore, the condition of this obligation is such that if the said R. Abbey, agent, or John W. Hunter, or either of them, shall defend the prosecutions thereof and respond in costs in case the said R. Abbey, agent, shall not support his said claim, then this obligation to be void; otherwise to remain in full force and virtue.

R. ABBEY. *Agent.* [SEAL.]
JOHN W. HUNTER. [SEAL.]

On the 4th day of June, 1862, a replevy bond was filed by the claimant which is as follows:

Circuit court of the United States for the middle district of Tennessee.

THE UNITED STATES OF AMERICA *vs.* THE LOT AND BUILDING THEREON KNOWN AS THE SOUTHERN Methodist Publishing House, and the presses, type, machinery, fixtures, and implements connected with the said house or lot or attached to said property.	Libel of information, No. 8.

Know all men by these presents that we, Richard Abbey, agent of "The Book Agents of the Methodist Episcopal Church South," and Richard Abbey and William R. Elleston are held and firmly bound unto the United States of America in the sum of $60,000, lawful money of the United States, to be paid to the said United States, for the payment of which, well and truly to be made, we bind ourselves and each of

us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals and dated this 4th day of June, A. D. 1862.

Whereas an information has been filed in the circuit court of the United States of America for the district of middle Tennessee, at Nashville, on the 24th day of May, 1862, by John Trimble, attorney of the United States for the district aforesaid, against the lot and building thereon known as the Southern Methodist Publishing House, and the presses, types, machinery, fixtures, and implements of the said publishing house more particularly specified in the information and monitionin the above-entitled suit, No. 8, for reasons and causes in the said information mentioned, and praying that the same may be condemned as forfeited to the uses in said information specified;

And whereas also a claim has been filed in said court by the said "Book Agents of the Methodist Episcopal Church South" as owners of the said property, to wit, of the said lot and building thereon, situated near the northeast corner of the public square, in the city of Nashville, fronting on said square, being the large building adjoining the City Hotel, known as the Methodist Publishing House, and also the type, presses, machinery of every description, implements, and fixtures of every character connected with the said house and lot or attached to said property;

And the said claimants having obtained an order from the circuit court of the United States for a redelivery of said property and a delivery of the possession of said real estate to the said claimants upon the execution of this bond:

Now, if the property seized as aforesaid shall be forthcoming, if so ordered by the court on the final hearing of this cause, to be subject to the decree or decrees to be pronounced in said cause, then this obligation to be void; otherwise to remain in full force and effect.

R. ABBEY, *Agent.*
R. ABBEY. [SEAL.]
W. R. ELLESTON. [SEAL.]

On the 27th day of June, 1862, a motion and affidavit was filed in said court by W. R. Elleston, which is as follows:

THE UNITED STATES
v.
A CERTAIN LOT AND BUILDING THEREON, SITUATED near the northeast corner of the public square, in the city of Nashville, fronting on the public square, being a large building adjoining the City Hotel, and known as the Methodist Publishing House, and also against all the type, machinery, presses, implements, and fixtures of every description connected with said house or lot or attached to said property.

In this cause William R. Elleston makes oath that he became a surety on the replevy bond given for the replevy of the property attached in this cause under rule No. 9, adopted by this court.

The bond is in the sum of $60,000, and is also signed by R. Abbey, the only co-security.

He states that said co-security has rented out some of the machinery, including a press, type, etc., to other persons without deponent's consent or knowledge, and against his wish, and he fears it will be so used that if destroyed or misused he will be liable upon his bond, without his consent to the misuse.

He is willing to remain liable for the forthcoming of the property if he and his co-security can be permitted to hold it in the state in which it was when seized in this case. But his co-security has not so acted, but has placed a part of the property beyond his own control, where it may be destroyed, and deponent made responsible for the acts of others and against his consent.

He therefore prays that the said Abbey have notice of this proceeding, that this deponent be released as surety on his said bond, and the property be redelivered to the marshal, to be held subject to the decision of the court in this cause, unless the said Abbey or his principal, the "Book Agents of the Methodist Episcopal Church South," will give other security.

W. R. ELLESTON.

Sworn to and subscribed before me this 27th June, 1862.

HORACE H. HARRISON, *Clerk*
By E. R. CAMPBELL, *D. C.*

Notice to R. Abbey on above motion, given June 27, 1862.

To R. Abbey, agent of the Methodist Publishing House South:

You are hereby notified that a motion has been made by W. R. Elleston to be released from the bond given for the redelivery of the property of the Methodist Publishing House South on account of the renting out of a portion of the property without his consent:

You are therefore notified to be and appear before the circuit court of the United States for the middle district of Tennessee, on June 28, 1862, at 11 o'clock in the forenoon of that day.

HORACE H. HARRISON, *Clerk.*
By E. R. CAMPBELL, *D. C.*

(Indorsed:) Came to hand same day issued. Executed by making known to R. Abbey the contents and leaving a copy of summons or notice with him.
June 27, 1862.

E. R. GLASCOCK,
United States Marshal,
By W. LELLYETT,
Deputy.

(Upon the back of the affidavit and motion of W. R. Elleston, before set out, is the following indorsement:)

On consideration of the motion founded on this affidavit I refuse to release William Elleston as a surety to this bond.
June 28, 1862.

J. CATRON,
Presiding Judge.

On the 20th day of April, 1864, an amended information was filed, which is as follows:

Circuit court of the United States for the middle district of Tennessee. April term, 1864.

And now comes Horace H. Harrison, esq., attorney of the United States for said district, who prosecutes herein in the name and on behalf of the said United States, and by leave of the court, obtained at the October term, 1863, and propounds as follows in addition to and as an amendment to his original information, No. 8, filed in this court:

The said attorney, by way of amendment, brings this information against all the types, presses, machinery of every description, and implements and fixtures connected with or used by "The Book Agents of the Methodist Episcopal Church South" in its publishing house in the public square in the city of Nashville. Also against all the right, title, interest, and estate of the said "Book Agents of the Methodist Episcopal Church South" in a lot of land in the city of Nashville, in the district aforesaid, on the public square in said city, more particularly described in the deed to said lot to said book agents, a duly-certified copy of which is herewith filed and made a part hereof, and the buildings and improvements, and all the hereditaments belonging and appertaining to said lot known as the Southern Methodist Publishing House, and against all persons lawfully intervening for their interests therein.

And thereupon the said attorney of the United States doth now allege, articulately propound, and give the judge of said court to understand and be informed that the said personal property has been heretofore seized in this cause before the filing of the original information, and the right, title, interest, and estate of the book agents of the Methodist Episcopal Church South was seized or levied on the 20th day of April, 1864, upon an order of seizure issued by the said attorney of the United States in pursuance of instructions from the Attorney-General of the United States, and the same is now in the custody of the marshal of said district, seized as aforesaid as forfeited to the United States for the causes following, to wit:

First. For that heretofore, to wit, at Nashville, in the district aforesaid, on the 1st day of January, 1862, and on divers other days before and since the day last aforesaid, and after the passage of the act of Congress, approved on the 6th day of August, 1861, entitled "An act to seize and confiscate property used for insurrectionary purposes," and after the public warning and proclamation provided to be given and made by the President of the United States, by the first section of the act of Congress aforesaid, had been duly given and made, and during the insurrection and resistance to the laws mentioned in said act, the said property herein described was knowingly used, or employed by the owners thereof, to wit, by a certain person or corporation called the "Book Agents of the Methodist Episcopal Church South," in aiding, abetting, and promoting the insurrection and resistance to the laws mentioned in said act of Congress, or persons engaged therein.

Second. That heretofore, to wit, at Nashville, in the district aforesaid, on the first day of January, 1862, and on divers other days, before and since the day last aforesaid, and after the passage of said act of Congress, and after the said public warning and proclamation had been duly given and made by the President of the United States, as provided by the act of Congress aforesaid, and during the insurrection against the Government of the United States mentioned in said act of Congress, the said owner of said property heretofore described, to wit, the said "Book Agents of the Methodist Episcopal Church South," consented to the use or employment of said property in aiding, abetting, or promoting such insurrection or resistance to the laws or persons engaged therein. By means whereof, and by force of the statute in such case made and provided, the said property became forfeited to the United States, and liable to seizure, confiscation, and condemnation.

Third. That all and singular the premises are true.

Wherefore the said attorney of the United States prays that all proper process upon the filing of this amended information issue, including the usual monitions warning all persons claiming or pretending to have any interest in said property to appear on the second Monday in May, 1864, to show cause, etc., and make their allegations, etc.; that the said personal property, and all the right, title, estate, and interest of the "Book Agents of the Methodist Episcopal Church South" in the real estate herein described, be sold, and the proceeds, after paying costs and allowances, be paid over to the use of the United States, and that the court will make all necessary orders and decrees herein as to law and justice may appertain.

HORACE H. HARRISON,
Attorney of the United States for the Middle District of Tennessee.

On the 20th day of April, 1864, an order of seizure was issued by the attorney of the United States for the middle district of Tennessee, which, together with the return of the United States marshal for said district thereon, is as follows, to wit:

OFFICE OF THE ATTORNEY OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF TENNESSEE,
Nashville, Tenn., April 20, 1864.

The marshal of the United States for said district will seize all the right, title, claim, and interest of the "Book Agents of the Methodist Episcopal Church South" in the Southern Methodist Publishing House lot in the city of Nashville and district aforesaid, and you will make return to me and notify the tenant, if any, in possession.

HORACE H. HARRISON,
Attorney of the United States for the Middle District of Tennessee.

RETURN OF THE MARSHAL INDORSED ON SAID ORDER.

Came to hand 20th April, 1864, and executed by seizing all the right, title, claim, and interest of the Book Agents of the Methodist Episcopal Church South in the Southern Methodist Publishing House lot in the city of Nashville, and gave notice to R. Abbey, agent, the tenant.

April 20, 1864.

E. R. GLASCOCK,
Marshal Middle District of Tennessee.

On the 30th day of April, 1864, a demurrer to the original and amended information was filed by the claimants, which is as follows:

THE UNITED STATES
vs.
THE LOT AND BUILDING KNOWN AS THE SOUTHERN METHODIST PUBLISHING HOUSE, and the presses, type, machinery, fixtures, and implements connected with the same.

And the said Book Agents of the Methodist Episcopal Church South come into court by attorney and say that the information and amended information filed in this cause and the matters therein contained are not sufficient in law, and that the said defendant is not bound by the law of the land to answer the same, and this the defendant is ready to verify; wherefore, for want of a sufficient information in this behalf, said defendant prays judgment, and that by the court the said information and amended information be dismissed and the defendant be discharged from the premises therein specified.

RUSSELL HOUSTON, *Proctor.*

JOINDER IN DEMURRER.

And the said United States, by Horace H. Harrison, attorney of the United States, come and say that the said information is sufficient in law.

Wherefore the said United States prays the judgment of the court, etc.

HORACE H. HARRISON,
Attorney of the United States for the Middle District of Tennessee.

On the 9th day of May the plea of Myers, Hunt & Co. was filed in said cause, which is as follows:

THE UNITED STATES OF AMERICA
vs.
A CERTAIN LOT OF PRESSES, MACHINERY, ETC., SEIZED BY the marshal in the Southern Methodist Publishing House, in the city of Nashville, Tenn., and now in the circuit court of the United States for the middle district of Tennessee.

Abram Myers, Wm. S. Hunt, and Michael Powers, partners, trading under the firm name and style of Myers, Hunt & Co., citizens of the United States and of the State of Tennessee, residents of Davidson County, in said State, make oath and represent to the honorable court that they are the true and bona fide of the following property, to wit:

One extra large iron lathe, worth $850; 1 other large iron lathe, worth $300; 1 large iron lathe, worth $125; 1 bench-cutter and machinery to same, with gear complete, worth $75; 1 large grindstone with frame, worth $40; 3 iron vises, worth $12 each, $36; 1 drill-press, with machinery and gear complete, worth $150; 1 lot of small tools, hammers, chisels, etc., worth $75; which have been seized and attached by the marshal of said court upon the warrant of said court, and now held by said marshal and embraced in the libel aforesaid, and that no other person is the owner thereof; that the aggregate value of said property is about $1,801.

They therefore pray that they may be made defendants and claimants of said property so seized and attached as aforesaid; that the said property so seized and held by said marshal be delivered to them upon their giving bond, &c., to have the same forthcoming according to the order and judgment of the court; and for their defense in this cause that they be authorized and permitted to make any motion, file any plea, demurrer, or answer to which they may be advised by counsel.

ABRAM MYERS.
M. POWERS.

JNO. S. BRIEN,
Counsel for Claimants.

Subscribed and sworn to before me this 9th day of May, 1864.

E. R. CAMPBELL, *Clerk.*

On the 3d day of June, 1862, an entry was made on the minutes of said court, which is as follows:

THE UNITED STATES
vs.
A CERTAIN LOT AND THE BUILDINGS THEREON SITUATED near the northeast corner of the public square in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as "the Southern Methodist Publishing House," and all the type, machinery, presses, implements, and fixtures of every description connected with the said house and lot or attached to said property.

This day the "Book Agents of the Methodist Episcopal Church South," a corporation created by the legislature of Tennessee, through Richard Abbey, one of the authorized agents, who is a citizen of the United States and the State of Tennessee, came into court and made oath that the said corporation is the bona fide owner of said property, and that no other person is the owner; that the place of business of said corporation is the city of Nashville, in the State of Tennessee, and the said corporation "Book Agents of the Methodist Episcopal Church South" ask to be made defendants to this cause, being the claimants of said property, with leave to file any plea, answer, or demurrer to the proceedings, or to make any motions as it may be advised to make, any motion consistent with the rules of practice of this court, which is granted upon the execution of the bond for costs which is due.

And thereupon the said corporation, through its agents aforesaid, pray that the said corporation be permitted to replevy the said type, machinery, presses, implements, and fixtures connected with the said house or lot attached to said property, and to have the possession of the real estate delivered over by the marshal upon the execution of the bond provided for in rule No. 9, adopted by this court on the 27th May, 1862.

Which prayer is granted, and the said property will be redelivered upon the execution of a bond conditioned as provided in said rule:

On the 5th day of May, 1863, an order was entered in said court, which is as follows:

THE UNITED STATES
vs.
THE SOUTHERN METHODIST PUPLISHING HOUSE,
type, presses, machinery, &c.

On application of the attorney of the United States, who prosecutes herein, it is ordered that the cause be continued until the next term.

On the 6th day of November, 1863, an entry was made on the minutes, which is as follows:

THE UNITED STATES
vs.
THE GUN FACTORY.

THE UNITED STATES
vs.
THE UNION AND AMERICAN NEWSPAPER.

THE UNITED STATES
vs.
THE REPUBLICAN BANNER.

THE UNITED STATES
vs.
THE NASHVILLE GAZETTE.

THE UNITED STATES
vs.
LOTS NOS. 1, 2, 3, 22, AND 24, ON COLLEGE HILL,
used in manufacturing cannon.

THE UNITED STATES
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE.

THE UNITED STATES
vs.
THE BAPTIST PUBLISHING HOUSE.

THE UNITED STATES
vs.
THE NASHVILLE PATRIOT NEWSPAPER.

THE UNITED STATES
vs.
THE LOT AND BUILDINGS CORNER CHERRY AND
Franklin streets, used in making gunpowder.

THE UNITED STATES
vs.
THE POWDER-MILLS OF WATSON & VEDDER.

THE UNITED STATES
vs.
ELLIS & MOORE FOUNDERY.

THE UNITED STATES
vs.
BRANNAN'S FOUNDERY.

In the foregoing causes, on application of the attorney of the United States, leave is granted to amend the information and proceedings therein, and a copy of said amended proceedings will be delivered by the marshal to the claimants or defendant of record in any of said causes, on or before the first Monday in February next.

On the 22d day of November, 1864, an entry was made on the minutes, which is as follows:

THE UNITED STATES
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE.

This cause is ordered to be continued until the next term.

On the 28th day of October, 1865, an entry was made on the minutes, which is as follows:

THE UNITED STATES
vs.
THE NASHVILLE GUN FACTORY.

THE UNITED STATES
vs.
LOTS NOS. 1, 2, 3, 22, AND 24, COLLEGE HILL, Nashville.

THE UNITED STATES
vs.
THE METHODIST PUBLISHING HOUSE.

THE UNITED STATES
vs.
LOT USED IN MAKING POWDER, CHERRY ST.

THE UNITED STATES
vs.
THE POWDER-MILLS OF WATSON & VEDDER.

THE UNITED STATES
vs.
BRENNAN'S FOUNDERY.

On the 23d day of October, 1865, an entry was made on the minutes which is as follows:

This day the attorney of the United States for this district announced to the court that under the instructions of the Attorney-General of the United States he was directed to continue and omit all further proceedings in all cases under the acts of Congress commonly called the "confiscation acts" pending and undetermined in this district until further instructions from the office of the Attorney-General, and thereupon moved the court to continue all of said causes.

Upon consideration thereof, it is ordered by the court that the above causes, being all the causes in this court pending and undetermined under said act of Congress, be continued.

On the 23d day of October, 1865, an entry was made on the minutes which is as follows:

THE UNITED STATES
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE, ETC.

Came the attorney of the United States, and the claimants, by their attorney; and the demurrer being solemnly argued, it is considered by the court that the said demurrer be overruled, with permission for the claimant to rely upon the matters raised by the demurrer on the trial of the cause.

On the 13th day of November, 1865, an entry was made on the minutes which is as follows:

THE UNITED STATES
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE, ETC.

Came the United States attorney, and the claimants, by their attorney, and, by direction of the Attorney-General of the United States, the said attorney says that he will no further prosecute herein.

It is therefore considered by the court that the information and proceedings in this cause be dismissed, and the property therein seized be restored to the claimant on payment by them of the costs and allowances in said cause. And the court allows to

John Trimble, former United States attorney, the sum of $100; to Horace H. Harrison, present United States attorney, $50; to the marshal, $250; and to the clerk, $100, for their services in this cause, for which let *fi. fa.* issue.

A certificate of probable cause of seizure is hereby awarded in this cause to the persons concerned therein.

UNITED STATES OF AMERICA,
Middle District of Tennessee, ss:

I, Edward R. Campbell, clerk of the circuit court of the United States for the middle district of Tennessee, do hereby certify that the foregoing is a true and perfect transcript of the record and proceedings had in said court in the cause of the United States against The Southern Methodist Publishing House, etc., as the same appears on record and from the files remaining in my office.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at Nashville, in said district, this 12th day of November, 1877.

[SEAL.] E. R. CAMPBELL,
Clerk United States Circuit Court.

AFFIDAVIT OF BREVET LIEUT. COL. A. W. WILLS.

Personally appeared before me, Josiah Ferriss, a notary public in and for the county of Davidson, State of Tennessee, A. W. Wills, a person well known to me, who, being duly sworn, deposes and says that in the late war of rebellion he was an officer in the Federal Army, brevet lieutenant-colonel and assistant quartermaster, stationed at Nashville, Tenn., in the years 1864 and 1865, and was detailed under command of General J. L. Donaldson, chief quartermaster of the Army of the Cumberland, and placed in charge of the Southern Methodist Publishing House, in said city of Nashville, then recently seized by the United States Army, by order of the late Major-General Thomas, and used as a Government printing house for the said Army of the Cumberland. Affiant had immediate charge of said printing house from about 1864 until about or near the close of the year 1865, when it ceased to be used by the Army.

Affiant further states that the demand for Army printing increased greatly and much beyond the general anticipation, and this Methodist publishing house being the only large establishment of the sort in the South known to this affiant, and it being impracticable to procure suitable printing machinery from the North in suitable time to meet these demands and necessities, the said publishing house was of very great, if not almost or quite essential, service to the Army of the Cumberland.

And this affiant further states that in consequence of and by the use of the large and ample machinery, extensive buildings, type and printing materials of the said publishing house he was enabled to furnish the Army printing at an immense saving of money to the Government, as his reports to the proper department will more fully show.

A. W. WILLS.

The above statement is made by me at the request of R. Abbey, esq., agent of the corporation. The facts therein contained are a matter of record among my reports on file in the office of the Quartermaster-General, United States Army, at Washington, D. C.

A. W. WILLS.

Sworn to and subscribed before me this September 20, 1873.

[NOTARIAL SEAL.] JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 16, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the Forty-fourth Congress of the House of Representatives, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 16th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF THOMAS D. FITE.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, notary public in and for the said county and State, Thomas D. Fite, a man well known to me, who, being duly sworn, deposes and says that he is a wholesale dry goods merchant and property holder in the city of Nashville, State of Tennessee; that he has been a merchant in said city

for twenty years, and is well acquainted with the property in said city of Nashville known as the Southern Methodist Publishing House, and that according to his best judgment the lot and building thereon, owned and occupied by said publishing house, and which was taken and used by the United States Army in the years 1864 and 1865, was in 1864 worth $150,000 at a fair estimate and valuation.

THOS. D. FITE.

Subscribed and sworn to before me the 1st October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF A. L. P. GREEN.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, a notary public in and for the county of Davidson and State of Tennessee, the Rev. Alex. L. P. Green, D. D., a man well known to me, who, being duly sworn, and says that he is, and has been for more than thirty years, a citizen of Nashville, Tenn., or its immediate vicinity, and a considerable owner of real estate in said city; that he is familiarly acquainted with the property in said city known as the Southern Methodist Publishing House, he having assisted in the purchase and fitting up of the same; and he believes a just and fair estimate of the value of said property—that is, the ground and buildings thereon—in 1864, to be $150,000.

A. L. P. GREEN.

Subscribed and sworn to before me the 1st day of October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF WILLIAM R. WARREN.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, notary public in and for the county of Davidson, Tenn., the Rev. William R. Warren, a man well known to me and of undoubted respectability and credibility, who, being duly sworn, deposes and says that for several years previous to 1864 he was chief clerk in one of the front stores and salesrooms of the Southern Methodist Publishing House, situate in the city of Nashville, Tenn.; that said publishing house was a very large one, as this affiant believes one of the largest in the United States, and by far the largest south of the city of Washington, D. C., having two large front stores and several large ware-rooms, in which were kept large quantities of books, paper, and stationery of all kinds, besides, in the rear of part of the same building, large printing, folding, binding, and stereotyping rooms, with many smaller offices, etc.; and that it was all in good order and condition in the month of December, 1863, in the proper custody of Rev. R. Abbey, financial secretary, one of the agents of said house.

Deponent further says that in December, 1863, or January, 1864, this entire establishment was taken possession of by the Army of the United States for the use of the United States by Colonel Donaldson, chief quartermaster or quartermaster-general, and, as deponent understood, by order of Maj. Gen. George H. Thomas.

The back building, or manufacturing department, was converted into a Government printing house for said Army, while the rest of the building, including the front stores and ware-rooms, were mostly used by the said Army for a Government saddle and harness factory.

This affiant does not know the precise value of the books, paper of various kinds, and general stationery in these front stores and ware-rooms so taken possession of as above for the use of said Army at that time, but he estimates it at $180,000, according to his best judgment.

This affiant further states that so urgent were the necessities of the Army for the immediate occupancy of those stores and ware rooms, etc., that much of the merchandise therein was thrown into indiscriminate piles here and there like so much rubbish, there being no place to store it; some of it was removed several times and piled in different places in fruitless attempts to save it from extreme loss and damage. While there was no willful attempt to destroy said property, so far as this affiant knows, it was most of it necessarily damaged in order to clear the rooms for the immediate use of the said Army, its necessities being immediate and pressing, as affiant was informed and as it seemed to be.

This affiant, with others formerly employed in the said stores, at the instance and under the direction of the Government officers immediately in command, assisted in endeavoring to save this property from loss; but such were the pressing demands of the Army for the immediate use of the rooms, it was impracticable except to a very limited extent.

This affiant further states that he has duly considered the amount of loss and damage to said merchandise, of all kinds, in the manner and for the reasons above stated, and he estimates it at 50 per cent. upon the whole value, which estimate he believes to be fair and just.

And this affiant further states that he has no means of knowing with accuracy the whole amount of the said stationery, paper, ink, blank-books, etc., that was actually taken and used by said Army for the benefit of the United States, but he estimates the same according to his best judgment, at $90,000, which estimate he believes approximates accuracy as near as the nature of the case admits of.

W. R. WARREN.

Subscribed and sworn to before me the 1st of October, 1872.

[NOTARIAL SEAL.] JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C. December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF JOHN W. HUNTER.

THE STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferris, notary public in and for said county and State, the Rev. John W. Hunter, a man well known to me, who, being duly sworn, deposes and says that he is well acquainted with the Southern Methodist Publishing House, in Nashville, Tenn., its business and general condition, he having been for about eight years employed in the same as head clerk in the principal retail store of the same, prior to the occupation of the said publishing-house by the Army of the United States in the years 1864 and 1865.

Affiant further states that when the officers of the U. S. Army took possession of the said publishing-house in December, 1863, or January, 1864, deponent does not remember which, it was done so suddenly, hurriedly, and unexpectedly that it was not practicable to take any inventory or account of the paper, ink, and general stationery so taken by the said Army for the use of the same; but, affiant having carefully examined such data as is within his reach, he estimates the same at $90,000, which estimate approximates exactness as nearly as practicable.

JOHN W. HUNTER.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.] JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee of War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before the said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee of War Claims of the House of Representatives.

AFFIDAVIT OF HUGH CARROLL.

THE STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferris, notary public in and for the said county and State, Hugh Carroll, a man well known to me, who, being duly sworn, deposes and says that he is now and for the last sixteen years has been general book-keeper in the Southern Methodist Publishing House, in Nashville, Tenn.; that when the United States Army took possession of the said publishing-house and its contents, on or about the 1st day of January, 1864, for a Government printing-house and saddle and harness manufactory, it was done so suddenly that no inventory was or could be taken of any part of the merchandise and personal property either in the sales or manufacturing departments of the said publishing-house; but from the best data within his knowledge, after a careful examination of the same, he estimates the said merchandise in the front stores, ware and sales rooms, including paper, ink, and everything not pertaining to the manufacturing department, at $180,000.

And said affiant in like manner estimates the manufacturing implements and machinery, including bindery, types, and all manufacturing material, implements, and machinery so taken possessson of by the United States Army, at $312,000, which estimates this affiant believes to be just and fair and as near exactness as is practicable.

HUGH CARROLL.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF WILLIAM KELSEA.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, notary public in and for said county and State, William Kelsea, a man well-known to me, who, being duly sworn, deposes and says that at and for about nine years previous to December, 1863, when the Army of the United States took possession of the Southern Methodist Publishing House, in Nashville, Tenn., he was the superintendent and manager of the stereotyping department of said publishing house, he being a professional printer and stereotyper by regular apprenticeship and employment, having then worked at the same for more than twenty-five years.

Affiant further states that he was very familiarly acquainted with the stereotype foundry, plates finished and unfinished, as well as all the implements, furniture, machinery, metal of various kinds, etc., in and pertaining to said department of said publishing house at the time it was taken possession of as above by the Army of the United States.

And he further states that when the said Army took possession of said publishing house and foundry there was in the latter considerable quantities of stereotype plates, some finished and some in the course of manufacture, as well as other material, metal of several kinds, etc., pertaining to the stereotyping business.

He further states that when said Army took possession of said property he, this affiant, had in his possession the keys of the stereotype rooms and minor apartments of the same; that the Army printers broke open the doors so locked, as he was informed and presumes, to obtain the metal, implements, etc., therein, for the use of the said Army; and he states that said Army printers did take and use said materials, metals, etc., for Army purposes.

And this affiant further states that he has recently, in the last few days, made diligent examination, from all the data practicable, of the plates, metal, and material in said foundry department to taken possession of by and used for the benefit of the United States; and while he can not state with exactness the value thereof, there being no possible opportunity of taking an inventory of the same, for lack of time, as the property was taken hurriedly and without notice, he estimates the value of the same, from his knowledge as a stereotyper and his recent examination, to be $4,550.70, which estimate he believes to be fair and just.

WILLIAM KELSEA.

Subscribed and sworn to before me the 1st day of November, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

I am personally acquainted with William Kelsea, and have known him for a number of years. He is a man of integrity and perfectly reliable in any statement he may make.

JOS. S. CARELS,
Chief Clerk Nashville Post-Office.

NASHVILLE, TENN., *November* 9, 1872.

HOUSE OF REPRESENTATIVES,
Washington, December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives, do hereby certify that the foregoing is a true and correct copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF ROBERT P. SPILLERS.

THE STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, notary public in and for the county of Davidson, State of Tennessee, Robert T. Spillers, a man well known to me, who, being duly sworn, deposes and says that by regular apprenticeship he is a printer, and by occupation for five years a superintendent of printers and printing; that he is now the superintendent of the Southern Methodist Publishing House, in the city of Nashville, Tenn., by which office he superintends, controls, and manages the entire printing and manufacturing portions of said publishing house; that he has held this office ever since the United States Army occupied and used the same in the years 1864 and 1865.

Affiant further says that when this publishing house was taken possession of by the United States Army it had capacity for the employment of about two hundred operatives, and was esteemed by competent judges to be a very fine and valuable publishing and book manufacturing house in all its appointments.

And he further states that when said printing implements and machinery were delivered up by the United States it was almost all of it in a seriously injured and damaged condition. Much of the machinery had been broken and otherwise injured, types, cuts, etc., destroyed, or in a confused and useless state. The stereotype foundry was wholly destroyed while in the possession of the Government, or so nearly so that the remaining fragments were practically useless.

This affiant estimates the value of all the manufacturing machinery and implements of said house when the Army took it at $312,000. He also considers that a fair rent per annum for the use of the same would be 25 per cent. on the value thereof.

The affiant further states that he has taken sufficient care to estimate the value of the damage of the same, in consequence of bad and improper usage, and fixes it at 50 per cent. on the value thereof.

R. T. SPILLERS.

Subscribed and sworn to before me the 1st October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF WILLIAM G. DASHIELL.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, a notary public in and for said county, William G. Dashiell, a man well known to me, who, being duly sworn, deposes and says that he is, by regular apprenticeship and vocation, an engineer and machinist; that he has been engaged in that business about seventeen years; that he is now in the employment of the city of Nashville, in said State of Tennessee, as chief engineer and machinist to the water-works of said city; that, as engineer and machinist, he has had charge of the machinery of the same about one year.

And this deponent further says that on or about the 11th day of January, 1864, he was employed by the Army of the United States, known as the Army of the Cumberland, under the command of Maj. Gen. George H. Thomas, and by the chief quartermaster of said Army, Col. J. L. Donaldson, whose headquarters were at said city of Nashville, to take charge of and run the engine, presses, and other machinery of the Southern Methodist Publishing House, so called, in said city of Nashville, then in the service of the United States and used as a printing-house for the use of said Army of the Cumberland; that he remained in said service and in charge of said engine and machinery about two full years—so long as the Army used the said machinery. The precise date of his dismissal from said employment is not now remembered.

Deponent further says that when he took charge of said machinery, as it was received from the Rev. R. Abbey, the agent of said publishing-house, it was very fine and costly machinery, all in excellent condition and calculated for the manufacture of books and fine printing, which kind of presses and machinery is calculated and intended to run much slower than printing-presses for the printing of blanks and the like for Army purposes.

Deponent was required by the officers immediately in command to run the said machinery much faster than its proper capacity, and he was still required to run it faster and faster, for that the wants of the Army were pressing for blanks and other printing until he replied to such orders that it was impossible to give the said machinery greater speed without the most imminent danger of tearing it all to pieces and endangering the lives of the operatives working the same. That all the time, or nearly so, that the United States Government used the said machinery, which, as aforesaid, was about two years, it was run beyond its intended capacity, generally at about twenty-five revolutions per minute beyond.

And deponent further says that, in consequence of said machinery being pushed beyond its proper capacity, the presses and other parts of the machinery were frequently broken and otherwise injured. Some of the most valuable presses were broken five or six times. When so broken they were repaired temporarily so as to answer for the printing of blanks such as the Army required; but in many instances it was impracticable to restore them to their original condition for book-printing.

Deponent further says that many of the printers here so engaged in using this machinery, types, etc., were very poor printers, and very incompetent to work in almost any printing-office, much less one of such fine and costly implements and machinery as constituted this I now speak of. Moreover many of them were reckless and careless in using the implements, types, etc., and that in consequence of such incompetent workmen the property in question suffered still further damage

Deponent further says that, as engineer and machinist, according to his best judgment, he estimates the damage to the aforesaid property, because of the pressing demands of the Army, and for the reasons above stated, at the time it was so used by the United States Army, at 30 per cent. on the value thereof.

Deponent further says that he does not know the precise value of the machinery and property hereinbefore spoken of, for he had no opportunity of making an inventory of the same; but he estimates the same according to his best judgment at the time it was taken possession of by the United States Army as aforesaid at a large value. And he further states that in his best judgment as engineer and machinist he believes a fair and reasonable rent per annum for the use of said property hereinbefore described would be 30 per cent. on its value.

And the deponent further states that among the property above spoken of were large quantities of stereotype-plates, some finished and ready for use, and some unfinished; that considerable quantities of these plates were taken by the Government workmen from time to time and used for Government purposes for metal for various purposes, but this affiant does not know what quantities of such plates were so used.

Deponent further says that among the property so pressed into the service of the United States as aforesaid were three large iron lathes which were used by the Government during several years as above, and that he considers a fair rent for such lathes to be ———.

WILLIAM G. DASHIELL.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF W. F. BANG.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, notary public in and for the said State and county, William F. Bang, a man well known to me, who, being duly sworn, deposes and says that he is a citizen of Nashville, Tenn., where he is and for twenty-five years has been a master printer, publisher, and proprietor, and is well acquainted with the printing and publishing business; and that he has a good general knowledge of the condition of the Southern Methodist Publishing House in said city of Nashville as it existed in the hands of the Rev. R. Abbey at the time it was taken by the Army of the United States for a Government printing-house, about the first of the year 1864, and that in his judgment, as printer and publisher, a fair rent for the use of the printing and manufacturing portion of the same would be 20 per cent. per annum on the entire value thereof.

W. F. BANG.

Subscribed and sworn to before me the 1st October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF JOHN M. HUDSON.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, a notary public in and for said county and State, John M. Hudson, a man well known to me, who, being duly sworn, deposes and says that by regular apprenticeship he is a printer and machinist in printing-machinery, and is accustomed to the control and oversight and management of first-class printing-presses and such like machinery.

He further says that he was familiar with the printing-machinery, presses, &c., of the Southern Methodist Publishing House in Nashville, Tenn., at and before the occupation and use of the same by the Army of the United States in 1864 and 1865, and that ever since the return of said property by the United States to the Rev. R. Abbey, the agent of the said publishing house, this affiant has had the charge, management, and control of the said printing-presses, engine, machinery, &c., in which occupation he is now engaged.

And affiant further states that when this machinery was returned by the United States to the said R. Abbey, agent, it was all or nearly all in a damaged condition, whereas when the Government received it, it was all in good order, but when so returned the printing-presses had been all broken or otherwise seriously injured. The presses were large and expensive, not intended for job-printing, such as the Government required, but for book printing. The Army printing would therefore almost necessarily injure them greatly, especially if run at a speed beyond their ordinary capacity. These presses were eight in number, large, and of fine style. Their condition when the Army printers left them showed plainly that they had been run at a speed far beyond their capacity.

Affiant further states that his opinion, as printer and machinist, is that the damage to said presses and other implements and machinery in their press-rooms from overwork and being applied to classes of work for which they were not well suited to, and by incompetent or careless workmen, was 50 per cent. on the value thereof. Much of the machinery can not be restored to its original condition.

This affiant is also of opinion, as printer and machinist, that a fair and reasonable rent per annum for the machinery and implements above spoken of would be 20 per cent. on the value thereof.

He further states that a reasonable rent for the use of the large iron lathes belonging to said publishing house, and used by said Army for turning cannon and other metal, would be $17 per week for each; and further, that when the machinery went into the hands of the Government it was all supplied with a full outfit of belting in good order, all of which was worn out by the Government printers. It was worth——

Affiant further states that he has been engaged in the said printing business, chiefly as pressman and machinist, for the last twenty years.

J. M. HUDSON.

Subscribed and sworn to before me this 1st October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF RICHARD ABBEY.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferris, notary public in and for said county and State, Richard Abbey, minister of the Gospel, a man well known to me, who being duly sworn, deposes and says: That in May, 1858, he was duly elected by the general conference of the Methodist Episcopal Church South, according to the regular forms and usages thereof, one of the agents and managers of the Southern Methodist Publishing House, so called and known, an eleemosynary and literary corporation, duly chartered by the State of Tennessee, and located and doing its principal business in the city of Nashville, Tenn., the corporate name of which corporation being the Book Agents of the Methodist Episcopal Church South, the office held by this affiant being usually called financial secretary. That after the 17th day of February, 1862, he, the said Abbey, had the sole management and control of said publishing house until the 15th day of October, 1865, and that he remained in said office of financial secretary, in the employ of said corporation, as one of its agents, until the 30th day of April, 1866.

Affiant further states that said publishing house, up to the time it was taken possession of by the Army of the United States, as hereinafter stated, was one of the largest and completest in the United States, as this affiant believes, its property in Nashville being worth, as taken and held by the said Army, nearly if not quite $700,000. The ground and buildings around and occupied by said corporation were worth, in 1864, in the judgment of this affiant, $150,000 at a low valuation. The front stores of this building, five in number, were occupied as sales and ware rooms while the rear buildings were used for printing, stereotyping, binding, etc., for an extensive publishing house.

Affiant further states that on or about the 1st day of January, 1864, this entire establishment, the house and all its contents, were taken possession of by the chief quartermaster of the Military Department of the Cumberland, Col. J. L. Donaldson, by order of Maj. Gen. George H. Thomas, commander-in-chief of the same, for the use of the Army of the United States, and was so held and used by said Army, and out of the possession of this affiant, until the 13th day of December, 1865, when it was—that is, what was left of it—restored to this affiant.

Affiant further states that when so taken he made every effort to induce the said Donaldson to confine his impressment to the rear buildings containing all the printing and manufacturing implements, fixtures, and machinery, and leave in the possession of this affiant the front stores and ware-rooms, containing paper, general stationery, books, etc. But this Colonel Donaldson peremptorily refused to do, saying to me, "I take immediate possession of the entire property, everything; the building entire and everything therein." For so he construed General Thomas's order; and he took possession of the entire property that day in the name and for the use of the United States.

The rear portions of the building, types, machinery, etc., were converted into a government printing office or printing house, while the front stores and ware-rooms were used as an army-saddle and harness factory. So that while this publishing house sustained a great portion of the entire expense of the public printing of this great branch of the Army of the United States, and of the paper on which that printing was done, and furnished large and ample stores and ware-rooms for an extensive Government saddle and harness factory, it was necessarily prevented from pursuing its

great work of supplying the whole country with a wholesome, moral and religious literature, which is its proper and legitimate business.

Deponent further says that in cleaning the stores and ware-rooms above mentioned for the reception of the Government saddlery and to make room for the workmen, so urgent were the necessities of the Army, as affiant was informed, that the books and stationery, much of it, was removed in the greatest possible haste, so much so that large quantities were hurriedly piled indiscriminately in great heaps, and some of it removed several times in attempts to save some of it from total loss, but the orders to clear the rooms were so peremptory and urgent that much of it was destroyed or damaged.

Affiant further states that when this property was so taken as above, he had just finished the building of a front store in a vacant space, of the value of $5,000, which store was entirely demolished and removed to make more easy access to the back buildings for the Government workmen.

And affiant further states that a lot of printing material, constituting what printers call a job-office, comprising a printing-press and complete outfit, was taken out of the said publishing house, and from the possession of this affiant, by order of the commander of the post at Nashville, and for the use of a corps of United States Engineers, and finally carried to the front, as affiant was told and believes. No part of this printing-office was returned. The value thereof, at a low estimate, as this affiant believes, was $5,500. It was taken on or about the 15th July, 1862.

And affiant further states that, by order of the United States post-commander of Nashville, in like manner three large iron lathes belonging to said publishing house were taken from his possession on or about the 10th January, 1863, and removed a short distance to another Government building where they were used by the United States Army for the turning of cannon and other metals. They were returned on or about 15th December, 1865.

Affiant further states that while this house was so in the possession of the Army, certain alterations were made in the interior of the building, for the benefit of the Government and its workmen; and that in the belief of this affiant it would cost $5,000 to restore the house to its original condition.

And this affiant further says that he has made careful estimate of the personal property, machinery, implements, and merchandise of all kinds in said publishing house, and put into the service of the United States and used by the Army as above explained; and he believes the value to be as follows, according to the best data within reach: The merchandise in front stores he values at $180,000, and the machinery, type, presses, bindery, etc., at $312,000.

Affiant further states that he has made careful estimates and cost of the damage to the merchandise in the front stores, to make room for the Government saddlery and workmen as above explained, and believes it to be 50 per cent. on the value thereof at a low and fair estimate.

And affiant further states that when the Army took possession of the said publishing house, its machinery was supplied throughout with a complete set of belting, which was worn out by the Army printers in the service of the United States, and rendered worthless.

Affiant further states that while the said Army took and kept actual possession of all the merchandise of every kind in the front stores and sales-rooms, they did not actually consume the whole of the same, for that some of it was returned to this affiant when the whole property was restored; affiant has made careful examination of all data within his reach to ascertain as nearly as practicable the amount thereof which was actually used and consumed by the said Army, and he estimates and values the same at $90,000.

Affiant further states that he had in his possession, made at the proper times and by the proper officers, the regular orders and receipts for the three iron lathes, and for the job-office for the Government engineers, above spoken of; but the copies of said orders and receipts were accidentally destroyed by fire.

R. ABBEY.

Subscribed and sworn to before me the 1st of October, 1872.

[NOTARIAL SEAL.] JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF JOHN W. CARTER.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferris, a notary public in and for said county and State, John W. Carter, a man well known to me, who, being duly sworn, deposes and says that in the year 1863, and for about six years previously, he was a clerk in the Southern Methodist Publishing House; that he usually lodged in the house and was well acquainted therein during all the time said house was occupied by the Army of the United States in the years 1864 and 1865. He further says that when the said Army took possession of said publishing house, Mr. R. Abbey, the agent in charge of same, had recently built a store in a vacant space in front of said premises, which store was torn down and removed by the Army workmen of said Army to make more easy access to the book buildings, for the accommodation of the Army printers moving the printing machinery, etc., of said publishing house.

This affiant does not know of his own knowledge the precise value of said new store, but from his knowledge of stores and rent in Nashville at that time, believes the said store would have rented for about a thousand dollars a year.

This affiant also knows that while the said Army of the United States occupied the said house there were various alterations, changes, etc., made therein for the accommodation and benefit of the said Army workmen, such as removing shelving, making stairs, cutting away cornice, making privies, sewers, etc. He does not know what it would cost to restore the said premises to the original condition before the changes and alterations were made, but from the best of his knowledge and belief, approximating such cost, he estimates it at five thousand or thereabouts.

J. W. CARTER.

Subscribed and sworn to before me the 19th October, 1872.
[NOTARY SEAL.]

JOSIAH FERRIS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF J. M. HUDSON.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferris, a notary public in and for said county and State, John M. Hudson, a man well known to me, who, being duly sworn, deposes and says, in addition to what he has formerly stated in a deposition previously made touching the occupancy and use by the Army of the United States of the Southern Methodist Publishing House in the years 1864 and 1865, that the belting on the machinery in said house taken and worn out by said Army in using the same in doing the Government printing, as stated in the said former deposition, was of the value of $750, in the judgment of this affiant as machinist, according to the best and most accurate estimate he is able to make of the same.

J. M. HUDSON.

Subscribed and sworn to before me this 23d day of October, 1872.
[NOTARY SEAL.]

JOSIAH FERRIS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

CERTIFICATE OF SAMUEL M. HARRISON.

OFFICE OF UNITED STATES LOCAL INSPECTOR OF STEAM-VESSELS,
Nashville, October 1, 1872.

This is to certify that I am personally acquainted with William G. Dashiell, the present chief engineer of the Nashville water-works, and I know him to be a gentleman and a first-class engineer, and would give credit to any statement he might make.

SAM. M. HARRISON,
U. S. Local Inspector Boilers, Nashville, Tenn.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

CERTIFICATE OF EDWARD H. EAST.

I have known A. L. P. Green, Thomas D. Fite, Thomas O. Summers, Hugh Carroll, W. R. Warren, J. W. Hunter, William H. Bang, A. H. Redford, Richard Abbey, and Robert T. Spillers for many years, none of them for less than five years and many of them for more than twenty years. They are personally among the best class; no better citizens can be found in this or any other community. They are gentlemen of intelligence (some of them in a high degree), of the most conscientious regard for truth, and entitled to full faith and credit under all circumstances.

I am, respectfully,

EDWARD H. EAST,
Chancellor of the Seventh District of Tennessee.

SEPTEMBER 30, 1872.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

CERTIFICATE OF E. R. CAMPBELL.

UNITED STATES OF AMERICA,
Middle district of Tennessee:

I, E. R. Campbell, clerk of the circuit court of the United States for the district aforesaid, do hereby certify that I am well acquainted with the standing and reputation of Rev. A. L. P. Green, Thomas D. Fite, Rev. Thomas O. Summers, Hugh Carroll, Rev. W. R. Warren, J. W. Hunter, Wm. F. Bang, A. H. Redford, and Rev. Richard Abbey, and from my knowledge of the men, and also from their general reputation, would say that they are entitled to full faith and credit in any deposition or otherwise. In fact they rank among the best and most substantial men of Nashville, and implicit faith would be given them before the courts.

[SEAL.]

E. R. CAMPBELL,
Clerk United States Circuit.

NASHVILLE, TENN., *September* 30, 1872.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVITS OF REV. JOHN B. M'FERRIN AND REV. R. ABBEY, RELATIVE TO CLAIM OF THE SOUTHERN METHODIST PUBLISHING HOUSE.

Personally appeared before me, Josiah Ferris, a notary public in and for Nashville, in the county of Davidson, Tenn., John B. McFerrin, a man well known to me, and being duly sworn, deposes and says that in May, 1858, he being a Methodist minister, was elected by the General Conference of the Methodist Episcopal Church South the general agent of the Southern Methodist Publishing House, in Nashville, Tenn., the Rev. R. Abbey being at the same time and by the same General Conference elected financial secretary of the same publishing house, the same being a corporation chartered by the legislature of Tennessee; and that this affiant and the said Abbey continued to discharge their several duties as above designated, and so jointly to manage said publishing house until about the middle of February, 1862, when this affiant left Nashville and did not return until May, 1865. And affiant further states that in the period from June, 1858, to February, 1862, when the affiant left Nashville as above, the business and finances of said publishing house were under the sole control of himself and said Abbey.

Affiant further states that during his connection with said publishing house as general agent as aforesaid, no part of the building, machinery, types, presses, or other property of said publishing house was permitted to be used by or for the benefit of the Confederate Army, so-called; nevertheless, prior to the 16th of February, 1862, some of the machinery of said house was for a time used for the benefit of said Confederate Army under imperative demand. Some of the printing presses and types were also used in the period above named for the printing of a book to be for the use of the Confederate Army, called "Hardee's Military Tactics;" but this book was not published by said publishing house, but by the State of Tennessee, while the Confederate forces occupied Nashville. The work was simply done as a job—not directly for the State, but for J. O. Griffith & Co., who were the State printers.

[SEAL.] J. B. McFERRIN.

Subscribed and sworn to before me the 17th of January, 1874.

JOSIAH FERRIS,
Notary Public.

DISTRICT OF COLUMBIA,
County of Washington, ss:

Before me, the subscriber, a notary public within and for the district and county aforesaid, duly commissioned and qualified, personally appeared the Rev. Richard Abbey, who, having been duly sworn, deposes and says: That from the month of May, 1858, until the 17th of February, 1862, he and the Rev. J. B. McFerrin, D. D., were the agents who had the entire management and control of the corporation in Nashville, Tenn., chartered by the legislature of Tennessee, under the name and style of "The Book Agents of the Methodist Episcopal Church South," and commonly known as the "Southern Methodist Publishing House;" and that from the said 17th of February, 1862, until after the close of the war of the rebellion, he, the said affiant, had the entire management and control of said corporation and its business, being, without intermission, actively and practically engaged in said duties from said month of May, 1858, till the month of April, 1866.

Deponent further says, that during the entire period of 1860 and 1861, and as long as the said McFerrin continued in the said business, as above stated, it was distinctly agreed and understood between them that suitable care must be taken by them that the said publishing house, being a church institution, must be kept, as far as possible, entirely aloof from all connection, entanglement, or alliance with the civil and military strife and commotion then threatening the country so fearfully. This understanding, affiant believes, was strictly and faithfully carried out as far as was in the power of said agents during the entire period above named. And so, in pursuance of this understanding, none of the property, machinery, or implements of any kind of this institution, was at any time or to any extent used by them, or permitted to be used in any way for the benefit of the so-called Confederacy, or to encourage secession of States or for the Confederate army or soldiers, their adherents, their government, or their cause.

Nevertheless, the following things are true, viz: During several weeks, affiant does not know how long, but up to the time of the capture of Fort Donelson, the 16th February, 1862, a portion of the machinery of said publishing house was used by the Confederates, or for their benefit, in the manufacture of war-like iron; but this was done under military coercion and against the consent of the proper authorities of said publishing house. The city of Nashville was then in the unmolested possession of Confederate troops, where they were improving their military equipments. By order of the governor of Tennessee, as affiant understood and believes, a book was printed at said publishing house called Hardee's Military Tactics; but over this matter the

house had no control, under the circumstances. A weekly newspaper was published at the same house, by order of the General Conference of the Methodist Episcopal Church South, called the Christian Advocate. In that paper several articles or paragraphs were inserted by the local editor, at different times, the tendency of which was to encourage the Confederates and secession. But neither the publishing house nor any of the officers thereof had any control or right of control of the editor of that paper as to what he would or would not print in it, he being placed there by and responsible only to the said General Conference.

Affiant further states that no moneys of said publishing house were ever used, paid, or in any way appropriated for the use, benefit, or advantage of said Confederates, either in the purchase of Confederate bonds or otherwise, so far as he knows or believes. He was the financial secretary of said publishing house for eight years, during the entire period of the late war, and he has no recollection of ever seeing a Confederate bond.

It is intimated it might be further proper to state here what portion of the officers or employés of said publishing house went South with the Confederates, on the evacuation of Nashville or afterward. The agents, editors, superintendents of manufacture, foremen, etc., of the house at that time were about twenty or more in number, as well as recollected; of these, one of the two agents and two of the three editors went South, all the rest remaining, as well as now recollected. Affiant is unable to recollect that any of the printers, binders, or other operatives or employés of said house went South with the Confederates, or that any of those remaining were ever seriously charged with being or were generally considered disloyal to the United States.

Affiant further states that after the said 17th February, 1862, and until the close of the war, he held no correspondence with any person or persons within the Confederate lines touching the affairs of said publishing house, nor would he at any time in the war have received or entertained any demands, requests, or counsel from anybody in that quarter on the subject of said business. At one time such a request was made in regard to a particular matter of not much importance, but was promptly declined.

And further this deponent sayeth not.

R. ABBEY.

Sworn and subscribed before me this twenty-ninth day of January, in the year eighteen hundred and seventy-four.

[SEAL.]

N. CALLAN,
Notary Public, City of Washington, D. C.

[Extract from the Discipline of the Methodist Episcopal Church South.]

"SEC. XXIII. OF THE RULERS OF THE UNITED STATES OF AMERICA.

"The President, the Congress, the general assemblies, the governors, and the councils of state, as the delegates of the people, are the rulers of the United States of America, according to the division of power made to them by the Constitution of the United States, and by the constitutions of their respective States. And the said States are a sovereign and independent nation, and ought not to be subject to any foreign jurisdiction."

By the above fundamental law the Methodist Episcopal Church South was placed of old, and has ever remained, under the protection of the Constitution and laws of the United States; but its well-known and highly-cherished policy is, to have nothing whatever to do with any civil or political questions. And so, in the time of the late war, the church—that is, that portion of it which then had legal existence in the United States—by the advice of competent counsel, held a general convention in Louisville, Ky., in April, 1864, at which its ancient and unchanged relation to the United States was, among other things, fully asserted. But this declaration of loyalty to the existing Government, though frankly and fully expressed, did not infringe upon its sacred doctrine of total non-interference in civil and secular questions. After the Southern people were re-admitted to their former citizenship by the Government, and so, the church reunited, the General Conference of the whole church, which sat in New Orleans in April, 1866, formally "approved the acts and doings" of this convention of 1864, and paid its expenses. All this is in full proof before Congress.

R. ABBEY,
Agent, etc.

WASHINGTON, D. C., *January* 30, 1874.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 21.

HEIRS OF HENRY H. AND CHARLOTTE K. SIBLEY.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MANSUR, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1466.]

The Committee on Claims, to whom was referred the bill (H. R. 1466) for the relief of the personal representatives and heirs of Henry H. and Charlotte K. Sibley, deceased, have considered the same with great care and respectfully report:

Your committee adopts, without alteration, the report made by the Senate Committee on Claims in the Fifty-first Congress and reported to the Senate on the 28th day of April, 1890, by Mr. Jones, of Arkansas:

[Senate Report, Fifty-first Congress.]

This case has been before Congress for many years. The Senate Committee on Claims during the life of Henry H. Sibley reported by Mr. Hoar a resolution to send it to the Court of Claims to find the facts and report. (*Vide* Senate Report 1419, first session Forty-ninth Congress, June 30, 1886.) After his death, at the second session of the same Congress, the following disposition was made of the matter in the Senate:

[Congressional Record, second session Forty-ninth Congress, page 601, January 13, 1887. Senate. Henry H. Sibley.]

Mr. MAHONE. I ask the Senator from Illinois to yield to me.

Mr. CULLOM. The Senator from Virginia asked me yesterday to yield and I declined. He has a bill also that he says will take no time beyond a moment or two. I shall not object, with the reservation that if the matter he wishes to call up leads to a discussion I shall insist on the regular order.

Mr. MAHONE. I move to take up Calendar No. 1624, being the bill (909) for the relief of Henry H. Sibley.

Mr. INGALLS. Let it be read at length for information.

The chief clerk read the bill with the amendment of the Committee on Claims, which was to strike out all after the enacting clause and insert:

"That the Court of Claims is hereby empowered to hear the claim of Henry H. Sibley, and to proceed with the same in accordance with the provisions of the act approved March 3, 1883, entitled 'An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government,' and to report to Congress the facts in the case and the amount of the claim, and the time when the claim or any parts thereof accrued, and any facts bearing upon the question whether the bar of the statute of limitation should be removed, or which shall be claimed, to excuse the claimant for not having resorted to the Court of Claims." *

Mr. MAHONE. I move to amend by striking out all after the enacting clause, and inserting what I send to the Chair. Since the bill was introduced the principal named in the bill is dead, and it is necessary to make an alteration. I offer this amendment with the approval of the Senator who reported the bill.

* This bill was reported by Mr. Hoar, from the Committee on Claims of the Senate, June 30, 1886, while Sibley was alive. Sibley died August 23, 1886.

The chief clerk read the amendment, which was to strike out all after the words "that" and insert:

"The Court of Claims is authorized to adjudicate the claim of the legal personal representatives of Henry H. Sibley, deceased, growing out of a contract made by Henry H. Sibley, in his lifetime, with the Government of the United States for the use of a patented invention in the manufacture of a tent known as the Sibley tent; and that for this purpose the Court of Claims shall have jurisdiction notwithstanding any bar of the statute of limitations.

SEC. 2. That either party to any suit that may be brought under the provisions of this act shall have the right of appeal to the Supreme Court of the United States from any final judgment the Court of Claims may render." *

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read a third time, and passed. On motion of Mr. Hoar, the title was amended so as to read, "A bill for the relief of the legal representatives of Henry H. Sibley."

In the Fiftieth Congress the Committee on Claims of the Senate reported by Mr. Hoar the same bill. (See Senate Report No. 1146, April 30, 1886.) On the 2d of May, 1888, this bill was again unanimously passed in the Senate. In the Forty-ninth Congress, during Sibley's lifetime, to wit, on the 15th of April, 1886, the House Committee on Claims reported a bill in the very words of the bill which has been reported and twice passed in the Senate. (*Vide* House Report, Forty-ninth Congress, No. 1722, April, 1886.) It was not reached for consideration in that Congress. In August, 1886, Maj. Sibley died. In the Fiftieth Congress the same bill was again reported in the House (*vide* House Report No. 121, January 25, 1886), and again after the Senate bill was passed and sent to the House, on the 1st of June, 1888. (*Vide* House Report No. 2408.) It was reached for consideration, but not disposed of, in the House on the 1st of February, 1889. The facts are as stated in Senate Report No. 1146 of the Fiftieth Congress. We give the facts as stated in that report, and a part of the conclusion, very applicable, as they are, to the decision now reached by your committee:

[Senate Report No. 1146, Fiftieth Congress, first session.]

The Committee on Claims, to whom was committed the bill (S. 518) for the relief of the legal representatives of Henry H. Sibley, deceased, have considered the same and respectfully report:

Henry H. Sibley was, before the rebellion, a major in the U. S. Army. He was born in the State of Louisiana, and graduated at West Point July 1, 1838. He served with distinction from that time to the breaking out of the rebellion. He was in several Indian wars; in many battles, including several important battles in the Mexican war, and was brevetted a major March 25, 1847, for gallant and meritorious conduct in the affair at Medilin, near Vera Cruz. He resigned his commission in the Army of the United States, being then major in the First Dragoons, May 13, 1861. He accepted a command in the rebel service and continued in that service during the war of the rebellion. His political disabilities were removed by an act of Congress; he was pardoned August 16, 1867, by President Johnson, upon certain conditions, all of which he complied with.

His widow, Mrs. Charlotte K. Sibley, was born at Sacketts Harbor, N. Y. Her maiden name was Charlotte Kendall. She was the daughter of William Kendall and Charlotte Howard, both of the city of Boston. Her grandfather was Joseph Howard, one of the selectmen of Boston. All her relatives, as far as known, were loyal to the United States, were born in States which remained true to the Union, and sympathized with the Union cause. Mrs. Sibley herself strongly sympathized with the cause of the Union, endeavored to prevail upon her husband to come North during the war, and was much distressed at his resignation from the Union Army and abandonment of the Union cause. She was in the city of Brooklyn, N. Y., when the war broke out, and remained there until four or five months after the battle of Manassas. She then, in obedience to the command of her husband, joined him in Louisiana, and remained there until some three or four weeks before the surrender of Gen. Lee. She returned to the city of Brooklyn and remained there until after the war. Her only children were a daughter, who was fifteen years of age when the war began, and a son, who was less than fifteen years of age when it ended. Her affidavit and other affidavits establishing these facts are annexed to this report.

Before the war Henry H. Sibley invented a certain conical tent, for which letters patent were issued to him on the 14th of April, 1856. It was known as the Sibley

* This bill in its very words was introduced by Mr. Mahone, January 10, 1887, and referred to the Committee on Claims of the Senate.

tent. On the 18th of February, 1858, the War Department made a contract with him by which the United States agreed to pay him a royalty of $5 apiece on all such tents which the Government should make. This was to continue till January 1, 1859, and thereafter until notice was given of its termination. That notice was never given.

On the 16th of April he assigned to W. W. Burns a one-half interest in his invention, and in "all benefits, profits, and royalties" which should arise from it after February 22, 1858.

The Government proceeded to use the Sibey tents, and used them before and during the war. The total amount of such tents so manufactured and used from March 1, 1858, to August 1,1861, was 3,583, upon 3,377 of which the entire royalty has been paid. During the rebellion the number of tents used by the United States was 43,958. We annex a letter from the Quartermaster-General of the United States, stating the facts as to the use of these tents by the United States:

Burns was loyal throughout the war. He brought a suit against the United States, in the Court of Claims, for his share of the royalties, and recovered judgment, which was affirmed by the Supreme Court in 1871 (see 12 Wall., 246). That judgment has been paid in full. There was never any proceeding, and, indeed, there was never any provision for a proceeding which forfeited his rights under the contract or deprived Sibley of a like remedy except the provision of the statute of March 3, 1863, which required as a condition of the right to sue in the Court of Claims an oath "that the claimant has at all times borne true allegiance to the Government of the United States, and has not in any way voluntarily aided, abetted, or given encouragement to rebellion against said Government."

The court held in Armstrong *vs.* The United States (13 Wall., 154) that a pardon by the President would enable a person, otherwise disabled by this provision from recovering against the United States, to recover, though no proof should be made that the claimant never gave aid or comfort to the rebellion, and that, therefore, the above condition of the act of March 3, 1863, was not applicable to a person who had received a pardon. This decision was rendered at the December term, 1871. The court had previously held, in *ex parte* Garland (4 Wall., 381), that a pardon granted to a person who had engaged in rebellion before conviction prevented any of the penalties and disabilities consequent upon conviction attaching; also that a pardon granted after conviction removed the penalties and disabilities consequent thereon, and restored him to all his civil rights. This decision declared Mr. Garland restored to his right to be admitted an attorney and relieved from the obligation to take a test oath on such admission.

Sibley, therefore, might, according to this decision, have brought suit in the Court of Claims at any time after his pardon of the 16th of August, 1867. But the act of Congress requiring an oath that he had at all times borne true allegiance to the Government and had not in any way aided or abetted the rebellion stood apparently in his way. It was not till the promulgation of the decision in Armstrong's case at the December term, 1871, that the public generally, or even the profession, understood the law to be as so declared by the court.

We suppose that in an ordinary case Congress would remove without queston the bar of the statute of limitations in the case of a person who had failed to bring a suit under such circumstances, but the committee seriously question whether they ought to waive the bar of the statute of limitations to enable a person to bring an action against the United States under a contract for a military invention the use of which invention by the Government was largely increased, and indeed, almost wholly occasioned, by a rebellion in which the claimant himself took part. If Mr. Sibley were himself the person seeking relief this objection would, in the opinion of a portion of the committee, be fatal to his claim.

But we think, on an appeal to the sense of equity and to the indulgence of Congress, the case of Mrs. Sibley and her children stands differently. She was unquestionably loyal to the Government, as were all her kindred. She endeavored to induce her husband to remain loyal. As he is dead, one-third of his property would become hers, either by his will or by the policy of most of the States in spite of his will, if he undertook to convert it from her. If he had a clear and unquestionable claim against the Government nothing in his own misconduct or in any other fact which has occurred has ever impaired or extinguished it.

APPENDIX.

Affidavit of Charlotte K. Sibley.

I, Charlotte K. Sibley, of the city of Fredericksburg, State of Virginia, do make oath that my maiden name was Charlotte Kendall; that I was born in Sacketts Harbor, State of New York, the daughter of William Kendall and Charlotte Howard,

both of the city of Boston, and that my grandfather was Joseph Howard, one of the selectmen of the city of Boston. That my father, William Kendall, was in the employment of the Government of the United States and remained so up to the time of his death, and that his children have always and (with the exception of myself) now reside in the North. That I am now 67 years of age. That I married the late Henry H. Sibley, formerly of the U. S. Army.

That at the time of the breaking out of the war of the rebellion I was with my children in the city of Brooklyn and my husband was in New Mexico. That I was much opposed to his resigning his commission in the U. S. Army, as were all of my people, for I had been brought up in army circles, and all of my sympathies were with the Union. That I sympathized with and was loyal to the Union all during the war of the rebellion. That I was much grieved when I heard of my husband's resignation, and remained in the city of Brooklyn until four or five months after the battle of Manassas, and then, in obedience to the commands of my husband and against my own inclination, I went to Louisiana, where I remained with my husband until some three or four weeks before the surrender of Gen. Lee, when I returned to the city of Brooklyn. That my daughter, Mrs. Helen S. Stokes, was only 15 years of age at the beginning of the war and 18 or 19 when it ended. That my son, Sidney J. Sibley, these being my only two children, was at the ending of the war only a mere boy, not yet 15 years of age, and that neither of the said two children were guilty of nor capable of being guilty of disloyalty to the Government of the United States. That I and my children are the legal heirs of my husband, Henry H. Sibley.

Witness my hand this 30th day of December, 1886.

CHARLOTTE K. SIBLEY.

STATE OF VIRGINIA, *City of Fredericksburg:*

Personally appeared before me Charlotte K. Sibley, whose name is signed to the above paper, and made oath that the statements therein contained are true.

Witness my hand this 30th day of December, 1886.

A. B. BOTTS, *N. P.*

Affidavit of Abner Bartlett.

I, Abner Bartlett, of the city of New York and State of New York, do make oath that during the year 1861 I knew Mrs. Charlotte K. Sibley; that she was then in New York City, and that my memory is quite clear that, in frequent interviews with me on her part at that time and when Gen. Sibley, her husband, transferred himself to New Orleans, into the Confederate service, Mrs. Sibley did what she could to prevail upon him to come to the North, and if he could not join the Union cause to at least resign and stand neutral. I had opportunities of knowing and do know that Mrs. Sibley in her sentiments was loyal to the Union cause.

Witness my hand this 5th day of January, 1886.

ABNER BARTLETT.

Subscribed and sworn to before me this 5th day of January, 1887, a notary public in and for the city and State of New York.

CHARLES H. CLASS,
Notary Public (224), *New York County.*

STATE OF NEW JERSEY, *Warren County, ss:*

Be it known that, on this 1st day of January, A. D. 1887, before me, a notary public, personally appeared Miss Theresa Kendall, and on her oath says that her sister, Mrs. Charlotte K. Sibley, was thoroughly loyal to the United States Government at the breaking out of the late rebellion, and was very much distressed at the resignation of her husband, Maj. Henry H. Sibley, from the Union Army.

THERESA KENDALL.

Sworn and subscribed before me this 1st day of January, 1887.

ROBERT A. COLE,
Notary Public, Hackettstown, N. J.

Affidavit of William H. Selden.

I, William H. Selden, of the city of Washington, do make oath that I was born in the State of Virginia, am forty-six years old, and am the proprietor of the Metropolitan Hotel, in the city of Washington, D. C.; that I was during the civil war on

the staff of Gen. E. Kirby Smith, of the Confederate army, in the Transmississippi Department, from 1864 to 1865; that I was personally acquainted with Mrs. C. K. Sibley, wife of the late H. H. Sibley, and was where I formed an impression of her general reputation as to loyalty; that she had the general reputation among those who knew her of being loyal to the Union cause, and that it was a matter of common rumor that she sympathized with the Union cause. I have read the affidavit of Mrs. C. K. Sibley and believe it to be a true statement of her sympathies and feelings.

Witness my hand this 2d of March, 1888.

W. H. SELDEN.

CITY OF WASHINGTON, *District of Columbia:*

Personally appeared before me William H. Selden, whose name is signed to the above paper, and made oath that the statements therein contained are true.

Witness my hand this 2d of March, 1888.

[SEAL.] JOHN CRITCHER, JR.,
Notary Public.

In no consideration of this case is it denied that there ought to be some compensation, but what the measure shall be has been the trouble in its consideration in our committee and elsewhere. Your committee think as the Senate committee said in the Fiftieth Congress:

"Mrs. Sibley was unquestionably loyal to the Government, as were all her kindred. She endeavored to induce her husband to remain loyal. As he is dead, one-third of the property would become hers by his will, or by the policy of most of the States in spite of his will, if he undertook to divert it from her."

And we think with the committee, that "on an appeal to the sense of equity and to the indulgence of Congress, the case of Mrs. Sibley and her children stands differently."

Mrs. Sibley is now dead. Her children, Mrs. Stokes, a widow, and her son, S. J. Sibley, were respectively minors at the close of the war, the boy being then only fourteen years of age. We recommend and propose one-third of what Burns has already recovered in settlement of his one-half of the joint interest of himself and Sibley in the contract in full satisfaction of all their claims and demands.

Burns has recovered, as per Treasury warrant No. 1652 of December 1, 1871, $113,100.35.

This makes the Sibley claim, exclusive of interest, $113,100.35, one-third of which is $37,700.11.

Your committee therefore recommend that all after the enacting clause in S. 468 be stricken out and the following inserted:

"That the proper accounting officers of the Treasury be, and they are hereby, authorized to pay to the heirs and personal representatives of Henry H. and Charlotte K. Sibley, deceased, the sum of $37,700.11, which sum, when so paid and received by the parties aforesaid, shall be in full satisfaction of all and every claim or demand against the Government of the United States on the part of the said heirs and personal representatives grown out of a contract made by Henry H. Sibley in his lifetime with the said Government, to wit, February 18, 1858, for the use of a patented invention known as the 'Sibley tent.'"

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 22.

WESTERN PAVING AND SUPPLY COMPANY.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MANSUR, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 919.]

The Committee on Claims, to whom was referred the bill (H. R. 919) for the payment of the claim of the Western Paving and Supply Company for paving streets adjacent to the United States court-house and post-office building in Indianapolis, Ind., submit the following report:

This bill was reported favorably to this House in the Fifty-first Congress, second session, and your committee being still satisfied with said report adopt it as their own, which said report is as follows:

[House Report No. 3501, Fifty-first Congress, second session.]

The Committee on Claims, to whom was referred the bill (H. R. 10486) for the payment of the claim of the Western Paving and Supply Company, for paving streets adjacent to court-house and post-office building in Indianapolis, Ind., submitted the following report:

This claim is for improvement of the streets adjacent to the United States court-house and post-office building in the city of Indianapolis, Ind. Under the laws of that State (R. S., 1881, sec. 3162) the common council is authorized and empowered to direct the improvements of streets and to award the contract therefor and to assess the property bordering on the same with the cost of the improvement. This statute has been so repeatedly sustained by the supreme court that its constitutionality has long since ceased to be an open question. In the case of the city of New Albany and another *vs.* Cook and others (29 Ind., page 220) the supreme court of that State, in passing on a similar statute, said:

"These local assessments are authorized on the principle of the direct benefits resulting to those upon whom they are made from the improvements. Every property holder, and in some degree every resident of the city, may be interested in the improvement of all the streets of a city, but those owning property on that part of the street to be improved are directly interested in and benefited by the improvements, while the common interest is remote, and hence it is deemed just and equitable to require those directly benefited and whose property is enhanced in value by the improvement to bear the expense of making it."

The improvements for which this claim was presented were regularly made under the statute and decision quoted, and the property of the Government, if owned by an individual, would be subject to sale for the cost of the same. Copies of the ordinances, contracts, and bonds, together with the estimates of the city engineer, showing the amount due, were presented to the committee, but owing to their length and the unquestioned validity of the claim are not made a part hereof. The amounts due, as shown by the estimates of the engineer, aggregate $1,653.31, the amount proposed to be appropriated in the bill.

A letter from the postmaster of the city of Indianapolis is presented herewith and made a part hereof.

While the Government can not be compelled, like an individual, to pay for the improvements thus made, its property has been enhanced in value to that extent and the claim certainly constitutes an equitable lien, and as the Government derives annually a large income from the property and the business transacted therein we think the same should be paid without question.

MAY 21, 1890.

DEAR SIR: The Western Paving and Supply Company, of this city, has paved with asphaltum Pennsylvania and Court streets in front of and along the Government property in this city, according to their contract and in pursuance to the city ordinance therefor, and all property owners have paid their assessments.

The improvement is a valuable one and was necessary. There was no authority for doing the work in front of the Government property other than the city ordinance and the necessity for the improvement. The Government claims that its property is without the jurisdiction of the city authorities, and, there being no appropriation for such work, declines to pay the assessment made by the city authorities against the Government property.

Truly, yours,

WM. WALLACE.
Postmaster.

Hon. W. D. BYNUM,
Washington, D. C.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 23.

SELMA AND MERIDIAN RAILROAD COMPANY.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MANSUR, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1051.]

The Committee on Claims, to whom was referred the bill (H. R. 1051) for the relief of the Selma and Meridian Railroad Company, respectfully report:

A bill similar to this has been favorably reported by this committee in the Forty-ninth, the Fiftieth, and the Fifty-first Congresses, and always favorably.

Your committee adopt and affirm the House Report No. 343, Fifty-first Congress, first session, which is as follows:

[House Report No. 343, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 1418) for the relief of the Selma and Meridian Railroad Company, respectfully report:

A bill similar in all respects to the present bill was reported favorably by the Committee on Claims in the Forty-ninth and Fiftieth Congresses.

Your committee adopt the former report, which is as follows:

This is a claim of the Selma and Meridian Railroad Company for carrying the mails over its road daily, between Selma, Ala., and Meridian, Miss. (a distance of 107 miles), from the 20th day of May, 1865, to April 1, 1866, ten and one-third months, at the rate of $75 per mile, or $8,025 per annum, amounting to $6,910.42, on which a payment of $3,012.42 has been made, leaving a balance due of $3,898.

This service was rendered under the military authorities and prior to the time when the Postmaster-General took possession of the postal service on this route. The claim was presented to the Quartermaster-General by the general superintendent of the road on the 25th day of May, 1867, but owing to some uncertainty in that officer's mind as to whether the mail was carried daily, a triweekly allowance was made at the rate of $50 per mile.

In addition to the evidence that was before the Quartermaster-General, showing that the mails were carried daily, the company now present the testimony of two members of this House as to this fact.

Hon. A. L. Davidson lived within a quarter of a mile of the depot of this road, at Bellview, Ala., and had every opportunity of knowing the facts in the case, and Hon. J. T. Jones resided at Demopolis, Ala, at the time named, and was a practising attorney and received his mails daily by this road during this period. Had any interruption of the daily mail occurred it would have attracted his attention.

The rate charged ($75 per mile, or $8,025 per annum) appears to your committee to be a reasonable compensation for this service, and is the price fixed and paid by the Postmaster-General for the same service immediately following the period charged for in this claim, as appears by the following order:

[May 25, 1867, Route No. 7003*a*, Alabama, Selma and Meridian Railroad Company.]

Recognize service of Selma and Meridian Railroad Company in conveying the mails on this route from April 1 to June 30, 1866, at the rate of $8,025 per annum, and refer to the Auditor to adjust and place the amount found due at the Treasury to the credit

of the Quartermaster's Department. [The road being at that time indebted to that department for rolling stock, etc., purchased from it.]

This order also recognizes that the road has been carrying a daily mail and fixes the value of such service.

Your committee being satisfied from the evidence that this road rendered the service charged for, and that the rate as fixed by the Postmaster-General for the service was reasonable and just, do recommend the passage of the bill.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 24.

RELIEF OF OWNERS OF THE SCHILLINGER PATENTS.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MANSUR, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1165.]

The Committee on Claims, to whom was referred the bill (H. R. 1165) for the relief of the owners of the Schillinger patents, respectfully state that this bill has been under consideration heretofore of the Committee on Patents, and of this committee, and was in the last Congress favorably reported to this House from this committee.

The facts of the case are stated so clearly and fully in the report made by this committee in the last Congress that your committee re-adopt it as their own, and recommend the passage of the said bill.

House Report No. 1994, Fifty-first Congress, first session.

Mr. LAIDLAW, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 1024.]

The Committee on Claims, to whom was referred the bill (S. 1024) conferring jurisdiction on the Court of Claims to finally determine the claims of John J. Schillinger and his assignees and licensees for the use of the Schillinger patent in the Capitol grounds, having considered the same, submit the following report:

The rights of the patent of John J. Schillinger for the District of Columbia for improvements in concrete pavements, dated July 19, 1870, and reissued May 2, 1871, were purchased by seven residents of the District of Columbia July 3, 1871.

Subsequently the Artificial Stone Company of the District of Columbia was licensed by the seven assignees to use the patent in the District of Columbia. This license was dated November 30, 1871, and was assigned by the Artificial Stone Company to Charles M. Roberts on the 29th of January, 1874. In 1875 it was proposed to lay concrete pavements in the Capitol grounds.

The licensee, Charles M. Roberts, put in a bid to lay such a pavement according to the Schillinger patent for 45 cents a square foot, but the contract was awarded to G. W. Cook at 28½ cents a foot. The pavement as laid by Cook is claimed to be an infringement of the Schillinger patent. The Architect of the Capitol was notified at the time of the letting of the contract to Cook that his work would be an infringement. This work was done at various times from the 11th day of October, 1875, till the latter part of October, 1881.

During the progress of this work the patent was being made the subject of litigation as to its scope and validity in several of the United States circuit and district courts. In July, 1883, Judge Blatchford (now on the Supreme Court bench) delivered an opinion in the case of Schillinger against the Greenway Brewing Company, reported in the Seventeenth Federal Reporter to the effect that the patent was valid and that a pavement similar to that laid by Cook in the Capitol grounds was an infringement of the Schillinger patent. Upon the assembling of Congress (the Forty-ninth) following this decision of Judge Blatchford some of the parties claiming interest in the patent petitioned Congress for compensation for its use in laying the sidewalk in the Capitol grounds. This petition was referred to the House Committee on Patents, which committee on the 25th of March, 1884, referred the petitions and papers to the Court of Claims under the Bowman act for adjudication.

The report and findings of the Court of Claims upon the said matters were returned to the House of Representatives on the 6th day of February, 1886, and referred to the Committee on Patents.

The court found that the patent was valid and had been infringed in laying the pavement in the Capitol grounds.

The claimants under the patent then asked the Committee on Patents to report a bill making an appropriation to pay for the use of the patent in accordance with the findings of the Court of Claims.

The committee, however, decided, in view of the opinion of Judge Hagner of the supreme court of the District of Columbia in a case against one Crawford (which the committee adopted as part of its report), that there had been no infringement.

Claimants then petitioned Congress, praying that the findings of the Court of Claims be returned to the Court of Claims with jurisdiction to hear and finally determine the questions involved. This petition was referred to the Committee on the Judiciary, and the committee reported a bill by Mr. Collins, conferring jurisdiction upon the Court of Claims to determine the matter. The bill died upon the Calendar.

This is the history of the case up to the reference of the present bill to your committee.

Your committee finds that the Supreme Court of the United States in an opinion delivered by Judge Blatchford April 22, 1889, in the case of Hurlbut *vs.* Schillinger (p. 456, Vol. 130, U. S. Reports), unanimously affirmed the construction of the patent which was given by Judge Blatchford in the Greenway Brewing Company's case, and which was relied on by the Court of Claims in the case reported under the Bowman act, and cited Judge Hagner's opinion, and apparently overrules it.

In view of all these facts your committee is of opinion that the claimants are entitled to a judicial and final settlement of their claims, and therefore report back the Senate bill and recommend its passage. The bill permits all the claimants to appear in court and determine their cases as among themselves as well as against the United States, and the Government has all the advantages of defense it would have against any claim that may be presented under the general law, with right of appeal to the Supreme Court.

House bill No. 4117, being similar to the Senate bill, is reported back, with the recommendation that it lie upon the table.

Findings of fact by the Court of Claims June 1, 1885.

On the proof submitted, and after hearing counsel for the respective parties, the court finds the following facts, and directs they be reported to the Committee on Patents of the House of Representatives:

I.

On the 2d September, 1875, the Architect of the Capitol entered into a contract with one G. W. Cook for the laying of the concrete pavement then required for the improvement of the Capitol Grounds. Before the contract had been awarded to Cook, one Charles E. Creecy appeared before the Architect of the Capitol and filed copies of the Schillinger patents, hereinafter referred to, and protested against the contract being awarded to any person not a licensee under the patents. The ground of this protest was that the work prescribed by the then contemplated contract would be an infringement of the patents.

One C. M. Roberts, now deceased, then held the exclusive right to lay pavements under the Schillinger patents in the city of Washington. He had been a competitor

for the work, his bid being at the rate of 45 cents per square foot; but the validity of the patents not having then been established by the decision of any court, and the Architect of the Capitol being unable to determine whether they were valid or not, he decided that the interests of the Government would be best subserved by awarding the contract to Cook at the lower bid of 28½ cents per square foot, and requiring him to indemnify the Government. Accordingly it was awarded to Cook, and the following clause of indemnity was inserted therein: "It is understood and agreed by the said party of the second part that in the event of any legal proceedings being taken by other parties against the contractor or the United States for the infringement of any patent or claimed patent during the execution of the work, the contractors shall hold the United States harmless; and if said proceedings tend to create delay in the prosecution of the work the United States shall have the right to immediately employ other parties to complete the same."

II.

The invention of John J. Shillinger for laying concrete pavement in blocks is secured to him by letters patent bearing date the 19th day of July, 1870, which letters patent were re-issued the 2d May, 1871, modified, however, by a disclaimer filed the 1st March, 1875.

It has been determined in different circuit courts of the United States that the invention was patentable, and that the patents are valid. (Schillinger *vs.* Guenther, Shipman, J., 14 Blatchford, R. 152; Same *vs.* Same, Blatchford, J., 17 *id.*, 66; California Artificial Stone Company *vs.* Perinere, Sawyer, J., 8 Federal R., 821; Schillinger *vs.* Greenway Brewing Company, 17 *id.*, 244.) It has likewise been determined that a pavement similar to that which was laid around the Capitol and by a similar process was an infringement of the Shillinger device (Shillinger *vs.* Greenway Brewing Company, 17 Federal R., 244), and this court now finds that the patents as modified by the disclaimer are valid, and that the pavement laid around the Capitol by the contractor, Cook, in the manner prescribed by the contract with the Architect of the Capitol, constituted and was an infringement.

III.

The pavement laid by the contractor, Cook, under the contract before described and in violation of the Schillinger patent, was laid at various times between the 11th October, 1875, and the 16th July, 1881, and aggregated 236,571 square feet.

The contract price which he received, 28½ cents per square foot, was a fair and reasonable compensation for the work performed, inclusive of manufacturer's profits and exclusive of royalty for the use of the Schillinger invention.

The rate charged by the licensee under the patent for similar work, viz, 45 cents per square foot, was a reasonable compensation for such pavement, inclusive of both manufacturer's profit and a royalty for the use of the invention. If the licensee had been permitted to do the work, it would have cost him 17 cents per square foot, and he would have realized for his profits and royalty the balance of 28 cents per square foot.

IV.

The exclusive right to construct pavements under the Schillinger patent in the city of Washington was granted by the patentee to Charles E. Creecy, A. D. V. Burr, George R. Herrick, Albert Elsberg, Edward Renaud, L. R. Byrne, and A. C. Richards, and was by them assigned for ten years from the 30th November, 1871, to the Artificial Stone Company, a corporation in the District of Columbia. The foregoing assignments were duly recorded.

The Artificial Stone Company assigned its rights under the patent to Charles M. Roberts shortly before the contract between the Architect of the Capitol and G. W. Cook was entered into, and the seven original licensees above named joined in the assignment. This assignment to Roberts has never been recorded and can not be found, and its contents have been proved by parol.

Frances A. Roberts, the widow of Charles M. Roberts, assigned, November 8, 1882, all her right, title, and interest in the patent to the claimant, Charles E. Creecy, and he is likewise the administrator of L. R. Byrne, one of the original licensees. But it does not appear that the legal representative of the estate of Charles M. Roberts has ever assigned the license acquired by Roberts to the claimant, and the court finds that the damages for the infringement, or the royalty for the use of the Schillinger patent, in the laying of the concrete pavement around the Capitol, remains vested in the estate of Charles M. Roberts, deceased.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 25.

E. R. SHIPLEY.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MANSUR, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1678.]

The Committee on Claims, to whom was referred the bill (H. R. 1678) for the relief of E. R. Shipley, have considered the same and report:

This bill was first considered and reported favorably by this committee in the Forty-ninth Congress; it was again reported in the Fifty-first Congress, and your committee are content with the report then made, which is appended.

spector that I hoped he would give me a little time to make good the loss, and that he, from time to time, sent me statement of the losses.

I further swear that I sent to General Edgarton, inspector, Saint Louis, Mo., August 26, 1884, $100; September 13, 1884, $350; total, $450, to pay the losses above referred to. Also, July 2, 1884, $10, to pay for another letter claimed to have been lost in this office, the theory of the inspectors being that as Hoover stole the thirty packages, he, having a chance, stole the other; and the case was thus closed by inspectors on this hypothesis. I further swear that it is my belief not one of these letters were stolen in this office, and that I was not legally or honorably bound to pay the same, but did so on application of the inspectors, recognizing them as superior in authority. I further swear that the receipts of General Edgarton for the above $460 were sent to Hon. William H. Wade, M. C., and that I honestly believe the Government should re-imburse me for the same, as suggested by the inspectors who investigated the loss.

I also swear that I have concealed no facts regarding this claim, and stand ready to furnish any additional evidence required.

E. R. SHIPLEY,
Late Postmaster

SPRINGFIELD, MO., *February* 3, 1886.
Subscribed and sworn to before me this 3d day of February, 1886.
[SEAL.]

MCLAIN JONES,
United States Commissioner.

POST-OFFICE DEPARTMENT, OFFICE OF POST-OFFICE INSPECTOR,
St. Louis, Mo., May 9, 1885.

DEAR SIR: Upon the request of E. R. Shipley, postmaster at Springfield, Mo., asking for a statement regarding the loss of thirty registers, taken from his office in the latter part of June, 1884, I beg leave to submit the following:

I made a full and thorough examination of said loss, and as the result of my investigation arrested one William E. Hoover, a clerk in said office. Hoover was discharged by United States Commissioner Jones upon a preliminary hearing. Prior to my entering upon this investigation, Inspector Schourte had fully investigated the case, and reported that Hoover was the guilty party. Notwithstanding the fact that Hoover was discharged by the United States commissioner, I am still fully satisfied that Hoover was one of the parties guilty of the robbery.

I am also well satisfied that E. R. Shipley, postmaster, was in no way responsible for the loss, as no carelessness or negligence was shown upon his part in the investigation.

Mr. Shipley was called upon to make good the loss resulting from said robbery, and has paid the same in full. In my judgment he should be re-imbursed for the amonnt thus paid.

Very respectfully,

J. J. HANNA.

General WARREN P. EDGARTON,
Inspector in Charge, Saint Louis, Mo.

POST-OFFICE DEPARTMENT, INSPECTOR'S OFFICE,
Saint Louis, Mo., May 9, 1885.

SIR: I have the honor to forward you herewith a letter from Inspector Hanna, who investigated the loss of registered packages at your office by the theft of Hoover, and for which loss you paid $450. I considered it at that time a great hardship that you were compelled to make this loss good, and regretted that my duty called upon me to demand the money, but I have always worked upon the theory that where the people intrust their money to the mails, and it is lost while in the custody of employés of the railway mail service, that it should be made good.

You paid this money freely and without question upon my demand. I am of the opinion that you gave these registers the usual and ordinary care, and only lost them through the criminality of one of your clerks. If you can in any manner be re-imbursed by the Government for money paid on this account, I hope that you may accomplish this end.

Respectfully,

WARREN P. EDGARTON,
Inspector in Charge.

E. R. SHIPLEY, *P. M.*,
Springfield, Mo.

POST-OFFICE DEPARTMENT,
OFFICE OF ASSISTANT ATTORNEY-GENERAL,
Washington, D. C., June 28, 1886.

SIR: I have the honor to acknowledge receipt of your communication of date the 27th inst., relating to the loss of a registered package containing a sum of money. You state that Mr. Shipley, the postmaster at Springfield, Mo., from or in whose office the package was stolen, has paid the amount of the loss to the persons who were the losers by the theft, and that he wishes the Post-Office Department to make good the amount to him.

This can not be done. Revised Statutes, section 3926, provides that "the Post-Office Department or its revenues shall not be liable for the loss of any mail matter on account of its being registered."

The liability of the postmaster to the loser in such a case is one depending upon facts. Where a postmaster is guilty of no negligence in the premises, and a sworn assistant, appointed by him, steals the package, the postmaster is held not to be liable.

In Keenan *v.* Southworth, 110th Massachusetts, 474, it is said by Judge Gray: "The law is well settled, in England and America, that the Postmaster-General, the deputy postmasters, and their assistants and clerks, appointed and sworn as required by law, are public officers, each of whom is responsible for his own negligence only, and not for that of any of the others, though selected by him and subject to his orders." Lane *v.* Cotton, 1 Ld. Ryan, 641; S. C., Mod., 472; Whitfield *v.* De Spencer, Cowp., 754; Dunlop *v.* Munroe, 7 Cranch, 242; Schreyer *v.* Lynch 8 Watts., 453; Bishop *v.* Williamson, 2 Fairf., 443; Hutchins v. Brackett, 2 Foster, 256.

In the case in 7th Cranch, the United States Supreme Court recognize this doctrine, and say that the liability of the postmaster will, in case of moneys lost in the mails, only result from his own neglect in not properly superintending the discharge of duties, when it is intended to charge him for the negligence of his assistants.

In numerous other cases the same rule is laid down, and seems to be clear that a postmaster would not be responsible fer moneys stolen by a sworn clerk or assistant, if the postmaster were guilty of no negligence in superintending the duties of his office, or in keeping the dishonest official in employment.

This question of liability of postmasters to individuals is one that the courts, not the Post-Office Department, authoritatively decide. The inspector in this case probably deemed the postmaster negligent, and advised the payment. It was a matter, however, that the postmaster should have determined for himself, as it appears to me. Having paid it, he has no remedy against the Department.

Very respectfully,

EDWIN E. BRYANT,
Assistant Attorney-General, Post-Office Department.

Hon. WM. H. WADE,
House of Representatives.

SPRINGFIELD, MO., *January* 13, 1886.

DEAR SIR: I examined the case of the United States *vs.* William Hoover, and although in my opinion the testimony of the witnesses that were examined in behalf of the United States was not strong enough as to facts to warrant his being held for trial, the circumstances pointed very strongly to him. In the examination of the case, which was very thorough and searching, and conducted by Hon. William Warner, who was one of the best prosecuting attorneys ever in this State, there were no facts disclosed to show any negligence or carelessness on the part of the postmaster, Mr. E. R. Shipley, and it was shown that Hoover handled this mail. There was no evidence to show that the registered matter had been handled in a careless way by the postmaster or his employés.

Respectfully,

MCLAIN JONES,
United States Commissioner.

Hon. WM. H. WADE.

The bill is reported favorably with a recommendation that it do pass, and that House billNo. 3091, referring to same subject-matter, be laid on the table.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 26.

HEIRS OF H. COTHES, DECEASED.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 2228.]

The Committee on War Claims, to whom was referred the bill (H. R. 2228) for the relief of the heirs of H. Cothes, deceased, report as follows:

That during the Fiftieth Congress a law was passed directing the Quartermaster-General to investigate and report the amount and value of stores and supplies taken from the farm of H. Cothes, deceased, and used by the Army of the United States during the late rebellion, and also to report all the facts and evidence for the consideration of Congress.

The agent who investigated the case found that $3,735 worth of property had been taken and used by the United States Army.

Your committee report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 27.

ESTATE OF DAVID B. SANDERS, DECEASED.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2309.]

The Committee on War Claims, to whom was referred the bill (H. R. 2309) for the relief of the estate of David B. Sanders, deceased, report as follows:

This is a claim for quartermaster's stores furnished the Army of the United States during the late war. Claim stated at $5,000.

Claimant filed his claim in the office of the Quartermaster-General for adjudication under the act of July 4, 1864. The claim was given to Special Agent J. C. Dougherty for examination and report; and on December 26, 1874, he reported to the Quartermaster-General that the decedent's loyalty was established, and recommended payment for the following stores:

For 40 tons of hay, at $15	$600.00
For 2 tons of Hungarian grass, at $15	30.00
For 2,500 binds fodder	37.50
For 600 cords of wood, at $2.50	1,500.00
For 8,000 feet of lumber, at $20	160.00
For 55,000 feet of lumber, at $10	550.00
For 6,000 brick, at $8	480.00
Amounting to	3,357.50

Col. James A. Ekin, deputy quartermaster-general, transmitted the claim to the Quartermaster-General with a recommendation that the claim be suspended; and no action has been taken on said claim.

Your committee are satisfied that the claimant was a loyal citizen, and that stores of the value of $3,357.50 were taken and used by the Army of the United States, and report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 28.

GERTRUDE A. LEFTWICH.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2255.]

The Committee on War Claims, to whom was referred the bill (H. R. 2255) for the relief of Gertrude A. Leftwich, widow of John W. Leftwich, deceased, report as follows:

This is a claim for 10,000 bushels of wheat taken from John W. Leftwich, in Wayne County, Tenn., by the United States military forces, in February, 1862; claim stated at $10,000.

The loyalty of the claimant and the taking of the property and its value are proven to the satisfaction of the committee, and they report back the bill with the recommendation that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 29.

LA GRANGE SYNODICAL COLLEGE.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1849.]

The Committee on War Claims, to whom was referred the bill (H. R. 1849) for the relief of La Grange Synodical College, submit the following report:

The history of the claim is fully set forth in the House report from the Committee on War Claims, first session of the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend that the bill do pass.

[House Report No. 1465, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 5163) for the relief of the La Grange Synodical College, of La Grange, Tenn., respectfully report as follows:

That the La Grange Synodical College was duly incorporated under the laws of the State of Tennessee in 1856 by the Old-School Presbyterians, said college being located at the village of La Grange, about 50 miles east of Memphis, Tenn.

That this institution was of a purely literary and scientific character, and exclusively for the training and education of young men.

That at the beginning of the late war the property belonging to this college in La Grange, Tenn., was worth between $50,000 and $60,000, including buildings and the grounds, some 20 acres, upon which the college building was located.

That the building was a handsome two-story brick edifice, well and substantially made, and was worth, exclusive of the grounds, $35,000.

Said building was erected as recent as 1857, and was therefore comparatively new at the beginning of the war.

The proof supporting the character and value of this building is not of a vague, indefinite, or general character, but the testimony of persons who are fully cognizant of the facts as to the worth and character of said building. The witnesses supporting the above claim comprise the architect who planned the building, together with the carpenters, the brick masons, the painters, the tinners, the glaziers, all of whom participated in the erection of said building, and whose testimony is filed with this record.

The proof further shows that in the fall of the year 1862 the said college building was taken possession of by the United States troops encamped at said village of La Grange, Tenn., and was used by them until December, 1863, as a military hospital, military prison, and for other military purposes.

That the proof further shows that in the extremely severe winter of 1863 and 1864 the United States troops located at said village were suffering much for want of proper quarters, and the military forces there encamped, not with wanton and malicious motives for the mere purpose of destruction of property, but because of the great military and humane necessity, the comfort, and protection of the United

States troops, tore down said building and used the material for the purpose of erecting quarters for the use and occupation of said troops.

The proof to support the claim for the occupation of the college building and its being torn down and the use of the materials by said United States troops is from many witnesses of the highest character and worth, including ministers of the gospel, citizens of the place, and United States officers and soldiers. The latter witnesses were present at the place and occupied the building for the time, and testify from personal knowledge of that fact and of the tearing down and use of the material for the purposes indicated above.

Your committee are of the opinion that the claim is just and meritorious, and no compensation has been made to the trustees of the said institution or to any one else for them, and therefore recommend the passage of the accompanying bill with an amendment reducing the amount to $33,000.

The claim was made for the value of the property at the time it was occupied by the military authorities, and if the value of the property is paid no claim for rent should be allowed.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 30.

PEARSON C. MONTGOMERY.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1853.]

The Committee on War Claims, to whom was referred the bill (H. R. 1853) for the relief of Pearson C. Montgomery, submit the following report:

The history of the claim is set forth in House report from the Committee on War Claims, first session Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

House Report No. 235, Fifty-first Congress, first session.

MR. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 4242.]

The Committee on War Claims, to whom was referred the bill (H. R. 4242) for the relief of Pearson C. Montgomery, report as follows:

The facts out of which this bill for relief arises will be found stated in Senate report from the Committee on Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[Senate Report No. 1186, Fiftieth Congress, first session.]

This claim has been twice considered by the Committee on Claims, in the Forty-eighth Congress and the Forty-ninth, and each time with the same result and in the same language as to the merits of the claim. The present committee, with a small change in correcting dates and figures, adopt the former report prepared by the late Mr. Pike, of New Hampshire, as No. 332 in the Forty-eighth Congress, and No. 34 in the Forty-ninth. It reads as follows:

[Senate Report No. 332, Forty-eighth Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 896) for the relief of Pearson C. Montgomery, having considered the same, beg leave to make the following report:

On the breaking out of the rebellion, Pearson C. Montgomery, of Memphis, Tenn., was the owner of the steamer *New National*, of about 480 tons burden, and was engaged in regular business with said boat on the Mississippi River.

At the outbreak of the rebellion she was impressed by the Confederates into their service without and against the consent of Montgomery, as he alleges. She continued in the service of the Confederates from that time to June 6, 1862, when Memphis was captured by the Union forces. She was at Memphis on that day under orders from the Confederate authorities to proceed down the river. Said orders were not obeyed, but after the fight Chief Clerk Nicholas M. Johnson, under the direction of said Montgomery, as he alleges, went on board the monitor *Benton* and delivered the *New National* to Admiral Davis, and Capt. Alexander Grant, of the Navy, was immediately placed in command of her, and she entered upon the service of the United States with the full consent of said Montgomery, as he alleges.

She continued in said service from June 6, 1862, to March 20, 1863, a space of two hundred and eighty-eight days, at the expiration of which time she was turned over to said Montgomery by the order of the Secretary of the Treasury, and thereupon he chartered her for one year to Admiral Porter, at the rate of $50 a day, and for a second year at the rate of $65 a day.

The said Montgomery now asks that he be paid at the rate of $50 a day for the two

hundred and eighty-eight days the *New National* was in the service of the United States, under the command of Captain Grant, amounting to the sum of $14,400.

While the *New National* was so held, and before March 20, 1863, she was libeled in the United States district court for the southern district of Illinois, under the act of Congress of July 13, 1861, entitled "An act further to provide for the collection of duties on imports, and for other purposes."

December 17, 1862, the district attorney for the southern district of Illinois, L. Weldon, wrote to the Solicitor of the Treasury as follows:

"A few days since I obtained in the district court of this district a decree of condemnation against two steamers, the *Kentucky* and the *New National*. The ground of condemnation is that they carried on traffic in violation of the act of July 13, 1862, and the President's proclamation of August 16, 1861.

"The claimants have given notice of appeal to the circuit court, and intend, also, to make an appeal to the Treasury Department for remission of the penalty. My judgment is that, in the case of the *New National* especially, no relief should be given.

"The claimant has taken an oath of allegiance to the rebel government, and made some statements, as shown by the testimony, tending to show him at heart a disloyal man. The testimony on which he predicates his defense is taken without cross-examination and without any evidence as to the truthfulness of his witnesses.

"I have taken great trouble and expense in preparing these cases for trial, having been as far south as Memphis in taking proof. I am thoroughly satisfied, from what I know or have heard outside of the legitimate proof of the case, that the *New National* is a fit subject of prize and capture."

The following letter from the Secretary of the Treasury, Salmon P. Chase, to the Solicitor of the Treasury, Edward Jordan, gives a further history of the case. The letter is dated January 16, 1863:

"Capt. Pearson Montgomery, master and owner of the steamer *New National*, seized and recently condemned in the United States district court for the southern district of Illinois, under the act of July 13, 1861, has made his petition before me for the remission of said seizure and release of the boat. The complete record in the case, together with a statement of United States District Judge Treat, and the evidence, are presented. From these it appears to my satisfaction that Captain Montgomery was not of his own will in the rebel service with his boat, and that so soon as he could he escaped therefrom and voluntarily turned her over to the Federal authorities. * * * I conceive that the discretionary power conferred on the Secretary of the Treasury of mitigating or remitting forfeitures in cases of this nature should be used to extend relief to loyal persons and to lighten the hardships of the war so far as consists with the public interest.

"In this view of the case, and for the reasons above stated, I feel justified in extending such relief as lies in my power to the petitioner, upon the usual terms. You will accordingly please instruct the proper district attorney to dismiss said suit and further proceedings against said steamer upon these conditions, viz, that the claimant shall pay all costs of whatsoever character incurred by the seizure and judicial proceedings, together with a fee of $100 to the United States district attorney, and agree that a certificate of probable cause of seizure shall issue from the court for the protection of the seizing officer."

Accordingly the proceedings in the circuit court were dismissed and an order made in accordance with the Secretary's letter, as appears of record in said court.

In 1880 Captain Montgomery presented his claim for $14,400 to the Treasury Department. May 25, 1880, a decision was rendered by the Third Auditor on the case, rejecting it, and in July of the same year the Second Comptroller made a long examination of the case and rejected it. Captain Montgomery made two points, first, that the boat was not forfeit because it did not ply between ports one declared to be in a section that was in insurrection and a port not in such a section. He maintained that though the boat did run between New Orleans, La., and Columbus, Ky., both ports were in the insurrectionary sections, even though Columbus had not been so declared by the President's proclamation of August 16, 1861.

The above-mentioned proclamation declared, among other States, Louisiana to be in state of insurrection, but did not so declare as to Columbus, Ky.

The law authorizing such proclamation is the act of July 13, 1861, and is as follows:

"SEC. 5. It shall be lawful, etc., * * * for the President by proclamation to declare that the inhabitants of such State, or any section or part thereof, where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; and all goods and chattels, wares, and merchandise coming from said State or section into the other parts of the United States, and all proceeding to such State or section, by land or water, shall, together with the vessel or vehicle conveying the same or conveying persons to or from such State or section, be forfeited to the United States.

"SEC. 6. That from and after fifteen days after the issuing of said proclamation, as provided in the last foregoing section of this act, any ship or vessel belonging in whole or in part to any citizen or inhabitant of said State or part of a State whose inhabitants are so declared in a state of insurrection, found at sea, or in any port of the rest of the United States, shall be forfeited to the United States."

It will be readily seen that the Treasury Department could not legally decide this point different from what it did.

Captain Montgomery's second point was that the remission of the forfeiture by the Secretary of the Treasury not only restored to him his vessel, but the right to recover for her services from the time she was first seized.

Secretary Chase does not seem to have considered in his above letter that the remission of the forfeiture went to that extent. His power of remission arose under section 8 of the act of July 13, 1861, which is as follows;

"That the forfeitures and penalties incurred by virtue of this act may be mitigated or remitted in pursuance of the authority vested in the Secretary of the Treasury by the act entitled 'An act providing for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned, approved March 3, 1797,' or in cases where special circumstances may seem to require it, according to regulations to be prescribed by the Secretary of the Treasury."

The statute of March 3, 1797, gives power to the Secretary to stay the prosecution and remit the penalty, if one has been imposed, but it goes no further. There is no power in the statute, express or implied, whereby the Secretary could restore to Captain Montgomery the right to be paid for the services of his boat while under the decree of forfeiture.

The Treasury Department could not do otherwise than overrule Captain Montgomery's second point.

Under that head he also claimed that there was an implied contract on the part of the Government to pay for the boat for these two hundred and eighty-eight days.

That argument must necessarily fall for the reason that the boat belonged to the Government by force of the statute from the moment it was used in violation of the law and the President's proclamation. It has been held that where a forfeiture is declared by a statute in a case like this that the forfeiture becomes complete at the moment the statute is violated.

Mr. Justice Ballard says:

"The decisions are uniform both in England and the United States. In the United States *vs.* 56 barrels of whisky, etc., 'that where a statute denounces a forfeiture of property as a penalty for the commission of crime, if the denunciation is in direct terms and not in the alternative, the forfeiture takes place at the time the offense is committed and operates as a statutory transfer of the right of property to the Government.'"

And he adds:

"That the subsequent conviction and judgment are simply the consummation of the proceeding that the law requires to be instituted to ascertain the fact of the forfeiture." See also United States *vs.* 1,960 bags of coffee, 8 Cranch, 398; Gelston *vs.* Hoyt, 3 Wheat., 311; Caldwell *vs.* United States, 8 How., 381; Wood *vs.* United States, 16 Peters, 362; Henderson Distilled Spirits, 14 Wal., 16.)

As to the loyalty of Captain Montgomery the testimony is somewhat conflicting, but the committee are inclined to adopt the view of the Secretary of the Treasury, Hon. Salmon P. Chase, that Captain Montgomery was loyal to the United States Government, and that his acts inconsistent with that were not of his own free-will. It appears that as soon as the coercive acts of the Confederates were removed he voluntarily surrendered the *New National* to the United States.

It can not be supposed that the Secretary of the Treasury intended at the time he remitted to Captain Montgomery the forfeiture, and requiring him to pay costs and $100, that he was to have a claim against the Government up to that time for the use of it during the time it was in possession of the Government, and while it was in fact the property of the Government. Such a supposition is simply absurd.

The remission of the forfeiture can not have the effect of giving the right claimed in this case.

The statute of March 3, 1797, gives power to the Secretary to stay the prosecution and remit the penalty, if one has been imposed, but it goes no further. It does not confer the power to set aside or reverse the judgment. Its effect is to remit the penalty and restore the property, but the judgment and all its attendant disabilities, except those so remitted, stand, and the claimant is affected thereby.

But it appears from this case that this remission of the forfeiture was on the 16th day of January, 1863, but that the vessel remained in the use of the Government and was not surrendered to the claimant till the 20th day of March following, a period of sixty-two days. It does not distinctly appear where the boat was during this time. It does not appear but that the Government had the use of it during this time. The claimant alleges that it had, and the evidence tends strongly to show it. This point

does not seem to have been considered at all by either the Third Auditor or the Comptroller of the Treasury.

The committee think it would be just that the claimant should be paid for the use of the boat during this time. After the 20th of March, when the boat came into the possession of Captain Montgomery, the Government paid him $50 a day for the first year, and $65 per day for its use thereafter.

With reference to the use of the boat by the Government during the time covered by this report the committee finds the evidence stronger than the former report suggests. A letter from Admiral Porter, dated March 14, 1884, which is in the record, settles this question upon an authority which may safely be accepted as conclusive. The following extract is taken from this letter:

"I certify that when I assumed command of the Mississippi Squadron, in September, 1862, I found the *New National* and several other steamers of a similar class running on the Mississippi River and its tributaries in the employ of the Government.

"Owing to the fact that I was called upon to assume active operations against Vicksburg, and had to proceed in person to that point, I was unable to ascertain under what circumstances these vessels were employed, and did not know until March, 1863, that they were not chartered by the Government.

"The *New National* was, I understood, entitled by an arrangement with Flag Officer Davis to a compensation of $50 per day, which the owners claim they never received. As this seemed a reasonable compensation, and the employment of the vessel without a charter an irregularity which I thought should not exist, I entered into a charter with the owner on the 21st of March, 1863, agreeing to pay him $50 a day for the vessel for the period of one year."

The period covered by Admiral Porter's letter from September, 1862, to March 21, 1863, includes the time that the committee's report allows the claimant compensation for the use of his vessel.

The committee therefore recommend that the claimant be allowed for the use of his boat from the day of its release under the order of Secretary Chase, dated January 16, 1863, to the time when it was chartered, under the contract made by him, March 21, 1863, according to the record, with Admiral Porter on the part of the United States, a period of sixty-four days, at the rate of $50 per day, or $3,200 in all. This will make necessary the following amendments:

In line 6 strike out "fourteen" and insert "three" before "thousand."

In line 7 strike out "eight" and insert "two" before "hundred."

And they recommend that the bill do pass as thus amended.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 31.

ALEXANDER MOFFITT.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2025.]

The Committee on War Claims, to whom was referred the bill (H R. 2025) for the relief of Alexander Moffitt, submit the following report:

The history of the claim is set forth in House report from the Committee on War Claims, first session Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

demonstrated was justly due, is, your committee believe, a circumstance strongly corroborative of the claimant's averment that the receipt was given and received only for a payment on account. This was a case of use and occupation of premises and consumption of property of a loyal citizen by an army in its own territory, and your committee do not know of any principle of law or equity that denies to such citizen just compensation from his own Government for such use, occupation, and consumption of his property. It was not a case of an army occupying, using, and consuming property of an enemy in that enemy's country, and consequently the law appplicable to such cases is not applicable to this.

It is common knowledge that at the time the property was held by the United States Army the city of Washington was constantly filled with a large concourse of transient visitors, soldiers, and others, and it is too plain for argument, upon the evidence adduced before the Court of Claims, that the claimant was a heavy loser by being deprived of his property.

All the circumstances considered, your committee are constrained to concur with the findings of the Court of Claims, and have no hesitation in again recommending that the bill referred and recommitted to them do pass.

The Committee on War Claims, to whom was referred the bill (H. R. 6347) for the relief of Alexander Moffitt, report as follows:

That this claim was presented to the Forty-ninth Congress and a report was made in regard to it by the Committee on War Claims. As the examination by your committee has led them to the same results with those arrived at by the committee of the Forty-ninth Congress, they do not think it necessary to recapitulate the facts, but refer to that report, and herewith annex a copy for information.

Your committee adopt the said report as their own, and recommend that the bill referred to them do pass.

[House Report No. 2843, Forty-ninth Congress, first session.]

The Committee on War Claims, to whom was referred the findings of fact by the Court of Claims in the case of Alexander Moffitt against the United States, beg leave to report:

That the Committee on War Claims of the Forty-eighth Congress, not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding of the facts under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883. Said claim has been returned by the said Court of Claims with the following findings of fact, filed April 5, 1886, which findings have been referred to the Committee on War Claims of the present Congress, to wit:

I.

On the 12th of July, 1864, the claimant was the owner and in possession of the National Race-Course, in the District of Columbia. The race-course consisted of about 52 acres of land, inclosed with a suitable fence, and had thereon stables, sheds, saloons, and grand stand, and other buildings incident to a race-course.

II.

On the 12th of July, 1864, Lieutenant-Colonel Oberkuffer, commanding the Twelfth Pennsylvania Artillery, by order of Major-General Doubleday, then in command of the defenses of Washington, took possession of the race-course, and the military forces of the United States encamped upon and occupied the grounds and buildings for a period of eleven months.

III.

The Quartermaster Department in 1868 estimated the rental value of the premises during above occupancy to be $1,784.45. The claimant at first refused to accept this amount, but upon being assured by the officer making the payment that his acceptance would not preclude him from seeking the balance of his claim, he accepted it and signed a receipt in full. This receipt in full was given and received in the mutual understanding that it should not preclude the claimant from seeking in Congress the balance of the rent which he believed to be justly his due, and the payment was not a final settlement such as would stop the claimant from seeking the full value of the occupancy, and was in fact, though not in form, merely a payment upon account.

IV.

At the time when the United States forces entered upon and occupied the racecourse and buildings as set forth in the second finding, the saloon or restaurant was leased by the claimant at an annual rental of $3,000, and the stables at an annual rental of $1,200, and the fair rental value of the course, stand, and remaining property was $3,500 per annum, giving as a total rental value of all the premises used and occupied by the United States the sum of $7,700 per annum, and for the eleven months of occupation the sum of $7,058.26; but from this should be deducted the sum of $1,784.45 received on account of rent from the Quartermaster Department as set forth in the third finding, and likewise the sum of $500 received by the claimant from one of his tenants for rent of the saloon, amounting in all to $2,284.45, and leaving due to him, for the use and occupation of the United States during the foregoing term of eleven months, balance of $4,773.81.

V.

The United States, as lessees within the District of Columbia, were bound to leave the premises and buildings in as good order and condition as when entered upon, reasonable wear and tear excepted. But during the occupancy great injury was done to the premises, and the fences were taken down for military reasons and purposes, and some of the buildings were used for lumber and others greatly injured by the usage incident to the occupancy. The injuries were in the nature of voluntary waste, for which the Government under an implied occupancy would be liable out of the meaning of the decision of the Supreme Court in the case of Bostwick *v.* The United States (94 U. S. Rep., 53). The reasonable cost of repairing the premises, buildings, and fences to as good condition as when the United States entered in possession there, ordinary wear and tear excepted, would be the sum of $7,669.17, making, with the balance of $4,773.81 rent set out in fourth finding, a sum of $12,442.98 due claimant for the use and occupation of the premises.

The committee therefore recommend the payment of the amount found by the court, and recommend that the accompanying bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 32.

JOHN G. W. BROOKS.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2244.]

The Committee on War Claims, to whom was referred the bill (H. R. 2244) for the relief of John G. W. Brooks, report as follows:

In examining the accompanying papers in the case, your committee find that the said John G. W. Brooks is a resident of Crittenden County, Ky., and that the claim is for $1,000, claimed as a forfeit of a bond given by his brother, David A. Brooks, with claimant's signature as security for the good behavior and loyalty of the said David A. Brooks, which the latter kept and faithfully performed until he was forced by the Confederate forces to join the Confederate army.

Your committee also find the loyalty of the claimant to the Government of the United States during the late rebellion to be established beyond doubt. Believing the claim to be a just one, your committee recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 33.

HEIRS OF MARK DAVIS, DECEASED.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3255.]

The Committee on War Claims, to whom was referred the bill (H. R. 3255) for the relief of the residuary legatees of Mark Davis, deceased, submit the following report:

The history of the claim is fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

House Report No. 88, Fifty-first Congress, first session.

Mr. THOMAS, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 4496.]

The Committee on War Claims, to whom was referred the bill (H. R 4496) for the relief of the heirs of Mark Davis, deceased, report as follows:

The facts out of which this claim for relief arises will be found stated in House report from the Committee on War Claims of the Forty-ninth Congress, a copy of which is hereto attached for information.

The Supreme Court of the United States, in the case of Planters' Bank *vs.* Union Bank (16 Wallace, page 483), say:

> A pledge had been given that rights of property should be respected. When the city was surrendered to the army under General Butler, a proclamation was issued, dated May 1, 1862, one clause of which was as follows:
>
> All the rights of property, of whatever kind, will be held inviolate, subject only to the laws of the United States.

The court then declare that thereafter the military commander of that department had not the right "to seize private property as booty of war or to make any order, as commander, confiscating it."

Your committee report back the bill and recommend its passage.

[House Report No. 3333, Forty-ninth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2525) for the relief of heirs of Mark Davis, deceased, having considered the same and accompanying papers, submit the following report:

The petition and proofs show that Mark Davis, now deceased, came to the United States from England at the age of twenty-three years, and, becoming a naturalized citizen, took up his residence in the city of Petersburgh, Va. For many years prior and up to about the year 1843 he was actively engaged in business as a merchant in Petersburgh and in New Orleans. About the year 1843 he retired from active business, continuing to live in Petersburgh upon the income derived from his property, which was largely invested in business real estate in the best business portion of the city of New Orleans, and up to the breaking out of the war of the rebellion furnished him an ample income. During the war his age and infirmity were such that, although residing in an insurgent State, he was not called upon to in any way render aid or comfort to the Confederacy. He did not at any time take part, directly or indirectly, in the rebellion, but was enabled to remain loyal in spirit and in act to the Government. As soon as possible after the close of the war, believing that possibly his mere residence in a hostile country during the rebellion might constitute such constructive adhesion to the Confederacy as to render a pardon necessary and proper, he applied for such pardon, and same was issued to him July 29, 1865. (Same is herewith sub-

mitted, marked Exhibit No. 1.) As further evidence of Mr. Davis's loyalty during the war, we refer to Report No. 319, House of Representatives, Forty-third Congress, first session, and to the affidavit of a number of citizens of Petersburgh, therein printed.

In 1851, Mr. Davis, by formal power of attorney, appointed Edward Barnett, of New Orleans, his attorney in fact, to take possession of and to manage and control his property in that city.

When on May 1, 1862, General Butler took possession of the city of New Orleans, he issued a proclamation in which he declared that "all the rights of property, of whatever kind, will be held inviolate, subject only to the laws of the United States." This stipulation was observed, at least so far as the property of Mr. Davis was concerned, so long as General Butler was in command of that department; but immediately that he was succeeded by General Banks a different policy seems to have been adopted. (See letter of Edward Barnett to Mark Davis, sr., November 22, 1871, Exhibit No. 2, herewith.) What then transpired is best told by the following affidavit of Edward Barnett, and the orders, receipts, etc., therein referred to, which we give here in full, and the originals of which we submit as Exhibit No. 3:

Affidavit of Edward Barnett.

[Edward Barnett, notary public and commissioner of deeds, 18 Royal street, Merchants and Auctioneers' Exchange.]

NEW ORLEANS, *November* 22, 1871.

STATE OF LOUISIANA,
City of New Orleans:

I, Edward Barnett, of the city of New Orleans, do hereby certify and declare that as the agent and attorney in fact of Mark Davis, sr., of Petersburgh, Va., under power of attorney from him dated April 4, 1851, I was in possession of the following described improved properties, rights, and credits belonging to him in this city, viz:

First. Two stores in square bounded by St. Charles, Camp, Common, and Gravier streets, both fronting on St. Charles street, and forming the corner of Common street, valued at $60,000, and rented to Hollander and Weber at $7,500 per annum, payable monthly.

Second. Stores No. 34 and 36 Magazine street, in square bounded by Magazine, Tchoupitoulas, and Gravier streets and Natchez alley. No. 34 rented at $65 per month, No. 36 rented at $166.66⅔ per month, and valued at $55,000.

Third. Property No. 244 Tchoupitoulas street, in square bounded by Tchoupitoulas, Delard, Pearl, and Louisa streets, rented at $30 per month, valued at $5,000.

Together with the following rent-notes, cash, etc., viz:

Forty-one notes for $625 each, of H. Hollander and A. Weber, tenants of said stores, corner of St. Charles and Common streets, maturing monthly from the 1st July, 1862, to the 1st of November, 1875, the first note credited with $500, together with the lease of said stores.

Also, fourteen notes for $166.66 each, signed by Booth & Co., maturing monthly from the 30th of September, 1862, to the 31st of October, 1863, the first note credited with $75, for rent of said store No. 36 Magazine street, together with lease of same to said Booth & Co.

Also, one lease of said store No. 34 Magazine street, to H. Spiro & Co., at $65 per month in advance.

Also, lease to W. Zimmerman for premises No. 244 Tchoupitoulas street, at $30 per month.

Also, $1,085 in Confederate States notes.

Also, $275.30 in currency.

All which was seized under military orders by order marked A, and identified by me, of John W. McClure, captain and assistant quartermaster Department of the Gulf, under date of February 14, 1863, as will also appear by his receipt to me, marked B, and also identified by me, dated the 23d day of February, 1863.

That the above-described real estate only was returned to me by W. B. Armstrong, captain and assistant quartermaster, on the 31st of October, 1865, as per order dated 14th October, 1865, as appears by document marked C, also identified by me, the said Armstrong refusing to account to me for said notes, ready money, or rentals of said property, but referring me for same to the Government at Washington.

In witness whereof I hereto set my hand, at the city of New Orleans, parish of Orleans and State of Louisiana, on the 22d day of November, in the year of our Lord 1871.

EDWARD BARNETT.

Sworn to and subscribed before me this 22d day of November, A. D. 1871.
[I. R. S., 5 cents.]

A. BARNETT,
Notary Public.

A.

OFFICE OF THE CHIEF QUARTERMASTER,
DEPARTMENT OF THE GULF,
New Orleans, February 14, 1863.

SIR: You are hereby ordered to pay to Colonel Holabird or to me at this office, forthwith, all money, notes, bills, or other and all evidence of debts due to or belonging to one Mark Davis, of Virginia, now in your hands, or in any way under control.

Respectfully, yours,

JOHN W. MCCLURE,
Assistant Quartermaster.

B.

Received, New Orleans, February 23, 1863, from Edward Barnett, esq., forty-one notes, for $625 each, signed by H. Hollander and H. Weber, to mature monthly, from 1st July, 1862, until 1st November, 1865. The first note is credited with $500, paid 9th August, 1862, for rent of Mr. Davis's property, corner St. Charles and Common streets, as per lease, before E. Barnett, notary public, dated February 16, 1860.

Also, fourteen notes for $166.67, signed by Booth & Co., to mature monthly from 30th September, 1862, until 31st October, 1863. The first note is credited with $75 for rent of store, 36 Magazine street, as per lease, also received.

Also, one lease for store, No. 34 Magazine street, to H. Spiro & Co., at $65 per month in advance.

Also, lease to William Zimmerman for store 244 Tchoupitoulas street, at $30 per month.

Also, $1,085 in Confederate States notes.

Also, $275.25 in cash; balance as per account rendered this day.

The interlineation on reverse side is $275.25.

S. B. HOLABIRD,
Colonel and Chief Quartermaster.
Per J. W. MCCLURE,
Captain, A. Q. M.

C.

[Office assistant quartermaster, Bureau Refugees, Freedmen, and Abandoned Lands, State of Louisiana, No, 30 Carondelet street.]

NEW ORLEANS, *October* 14, 1865.

Mark Davis, by his agent, having this day signed the usual receipts for his property held by this Bureau under seizure by the United States Government, said property is hereby released and restored to said claimant, possession to be given on the 31st instant. Tenants and occupants will be governed accordingly.

Respectfully,

W. B. ARMSTRONG,
Captain, and Assistant Quartermaster.

Thus there is no room for question as to the fact that on February 23, 1863, the property, real estate, notes, cash, etc., described in the foregoing affidavit and receipts, being the property of a loyal non-combatant, was taken possession of by officers of the United States, and was retained by them until October 31, 1865, when the real estate only was surrendered to the agent of the owner. During that time the owner was deprived of all use and enjoyment of the property, and whatever revenues it produced were received by the Government through its officers in possession. We are able to show you with almost absolute certainty the amount of the revenues received from this property by the Government during the period it was so in possession.

(1) *The two buildings at corner of Saint Charles and Common streets.*—The buildings were leased November 1, 1860, to Hollander & Weber for a term of five years, expiring November 1, 1865, at $7,500 per annum, payable monthly. To secure the payment of the rent a series of the sixty notes of $625 each were given, one note falling due on the first of each month during the term. Hollander & Weber sublet the corner store to François Gunthier at $300 per month. They also sublet the upper portion of the two stories to one Skeggs for $300 per month. The rent notes given by Hollander & Weber were paid as they became due up to the note falling due July 1, 1862,

upon which note a payment of $500 on account was made August 9, 1862. Thus there was of this series forty-one notes, of $625 each, due and to become due, which came into the hands of the Government officer, as specified in his receipt. On taking possession of the property the Government officers notified the subtenants of Hollander & Weber to pay their rent to the officers, and also notified Hollander & Weber to attorn to them instead of to the agent of Mr. Davis. Thereafter Gunthier paid his rent, $300 monthly, to the United States officers, who held the notes which he had given to secure the rent, and after the return of the property he paid same to Barnett. Hollander & Weber paid to the officers the rent for that portion of the premises which they continued to occupy, paying therefor $75 per month. The upper portion of the building, sublet to Skeggs at $300 per month, was in August, 1863, taken possession of as a recruiting office and for other purposes, until the property was surrendered in October, 1865. It was then in such damaged condition that it required a large expenditure to make it available. The forty-one notes of Hollander & Weber surrendered by Barnett to Captain McClure were not paid. Instead of demanding payment of them the officers received directly the rents for those parts of the premises not occupied by the Government, and in October, 1865, the notes were turned over to Weber, who destroyed them. These facts are established by the affidavits of Henry Weber (Ex. No. 4), F. Hollander (Ex. No. 5), and François Gunthier (Ex. No. 6).

From this it is clear that on account of these premises the Government received—

From Hollander & Weber, $75 per month from February 1, 1863, to October 31, 1865, 33 months	$2,475
From François Gunthier, $300 per month for the same period	9,900
Total	12,375

In addition they undoubtedly received from Skeggs the rent for the upper portion of the buildings, $300 per month, from February 1, 1863, until they took possession of the same in August; but we are unable to establish that fact, Skeggs having died before his deposition could be taken. But it is certain that from August, 1863, to October 31, 1865, the Government occupied for its own use that portion of the premises, the rental value of which was fixed by the leasing to Skegg at $300 per month, for which the owner of the property was clearly entitled to remuneration, say 26 months, at $300, $7,800.

(2) *The building No.* 34 *Magazine street.*—The store in this building was leased to Spiro & Co. at $65 per month. Henry Spiro swears that from early in 1863 to the latter part of 1865, the period during which the Government had possession of the property, the rents were paid monthly to the military authorities. The upper portion of this building also was used by the Government for its own purposes. The entire building would readily have rented for $3,500 or $3,600 per year but for the occupation of the upper portion by the Government. When the Government surrendered the premises it cost some $1,500 to put it in repair. As to this property, see affidavits of Henry Spiro (Ex. No. 7), Bernard Dreifus (Ex. No. 8), Anthony Lafleur (Ex. No. 9), and M. Veit (Ex. No. 10).

On account of this property, therefore, the Government received—

From Spiro & Co., $65 per month from February 1, 1863, to October 31, 1865, 33 months	$2,145

(3) *The building No.* 36 *Magazine street.*—This was leased to Booth & Co. for a time, which expired October 31, 1863, at $166.66 per month, and monthly rent notes given. These notes were paid to Barnett, Davis's agent, up to the note which fell due September 30, 1862. Upon that note $75 was paid. The notes falling due after that date and up to October 31, 1873, were paid to the Government officers. Fourteen notes in all were so paid to the Government officers, upon the first of which was the credit of $75, making $2,258.24 so paid to them. After the expiration of the lease Booth & Co. remained in possession of the property until it was surrendered, October 31, 1865, paying the Government therefor the same monthly rent of $166.66. (See affidavits of Edward Booth, Exhibits Nos. 11 and 12.)

On this account the Government received—

From Booth & Co., on 14 notes of $166.66 each, less $75	$2,258.24
From Booth & Co., for rent from October 31, 1863, to October 31, 1865, 24 months, at $166.66	3,999.84
Total	6,258.08

(4) *The building No.* 244 *Tchoupitoulas street.*—By the affidavits of William Zimmerman (Ex. No. 13) and Mrs. A. Fraub (Ex. No. 14) it is shown that from February 1, 1863, to April 1, 1865, either Zimmerman himself or Mrs. Fraub, his subtenant, were in possession, and paid rent for the premises to the Government officers. Zimmerman says he first paid $30 and then $25 per month. Mrs. Fraub, holding under Zimmer-

man until April 1, 1865, paid $25. She then leased from the Government officers, and presents her lease and monthly receipts for $25 per month until August 31, 1865. So that the Government here received—

From Zimmerman and Mrs. Fraub, rent from February 1, 1863, to August 31, 1865, 31 months, at $25 per month at least $775

(5) *Cash.*—The receipt of Captain McClure admits the receipt by him from Barnett of cash, $275.25.

In further corroboration of the facts above stated, and as showing the character of the property in question, and of the tenants of Davis, who were in possession, we submit herewith the affidavits of John J. Barnett (Ex. No. 15) and of A. Barnett (Ex. No. 16).

RECAPITULATION.

The proof shows that during the time the Government was in possession of this property it received from it, in actual cash, as follows:

From the two stores, corner of St. Charles and Common streets	$12,375.00
From No. 34 Magazine street	2,145.00
From No. 36 Magazine street	6,258.08
From No. 24 Tchoupitoulas street	775.00
Cash from Barnett	275.25
Total	21,828.33

Your committee are of the opinion that the claimants are justly entitled to recover the amount of money actually received by the officers of the Government in cash and as the proceeds of the rents of the buildings seized, amounting to $21,828.33.

Your committee therefore report the accompanying bill (H. R. 2525), with the following amendment: In lines 7 and 8 strike out the words "twenty-seven thousand six hundred and fifty-eight dollars and sixty-eight cents" and insert in place thereof the following: "twenty-one thousand eight hundred and twenty-eight dollars and thirty-three cents"; and recommend that, as amended, it do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 34.

ANTHONY KOONS.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2284.]

The Committee on War Claims, to whom was reported the bill (H. R. 2284) for the relief of Anthony Koons. report as follows:

This is a claim for one horse furnished by the claimant to the Army of the United States during the late war. Claim stated at $150.

The loyalty of the claimant and the taking and use of the property are fully established by competent witnesses, and your committee is of opinion that the claimant should be reimbursed, and they report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 35.

FRANCIS M. MURRAY.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4520.]

The Committee on War Claims, to whom was referred the bill (H. R. 4520) for the relief of the estate of Francis M. Murray, deceased, report as follows:

In the latter part of the year 1863 Francis M. Murray, deceased, of McCracken County, Ky., was owner of a one-third interest in a barge-load of coal, lying at the wharf in the city of Paducah, Ky., consisting of about 4,000 bushels, all of which was taken in the night time by one or more of the steamers *Princess No. 2*, *White Cloud*, and *Empress*, which were at the time in Government employ. No receipt or voucher appears to have been given for the same. The Government had coal in the vicinity, and it appears probable from the evidence that the coal in question was taken through a mistake of the officers in charge of the boats, they supposing it to belong to the Government.

The committee find the amount of coal belonging to said Murray which was taken to have been 3,000 bushels, and the value at the time it was taken to have been 30 cents per bushel.

Mr. Murray is shown to have been an ardent and devoted Union man. The claim was presented to the War Department by Margaret T. Murray, administratrix of the estate of the said Francis M. Murray, deceased, under the act of July 4, 1864, and investigated by an agent of the Quartermaster-General, and disallowed by the Quartermaster-General for the reason that it appeared that the vessels taking the coal were at the time under the direction of the Navy Department, and that the coal taken and used by them was not a proper charge against the War Department.

The claim and accompanying papers were thereafter, at the request of the attorneys for the claimant, referred to the Secretary of the Navy for examination and payment, and returned by him to the Secretary of War, with the information that the records of the Navy Department afforded no information concerning the claim.

Your committee report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 36.

WILLIAM W. HILDRETH, DECEASED.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2294.]

The Committee on War Claims, to whom was referred the bill (H. R. 2294) for the relief of the legal representatives of William W. Hildreth, deceased, report as follows:

That this is a claim for stores and other property taken from the decedent in Lyon County, Ky., by the Army of the United States during the late war. Claim stated at $3,310.

Claimant filed his claim in the Quartermaster-General's Office, and was by that officer disallowed for the reason that he was not convinced of the loyalty of the claimant. The claim was investigated by an agent of the Quartermaster's Department, who took the testimony of the leading Union citizens of Lyon County, Ky., all of whom testified to the loyalty of the claimant.

Your committee is satisfied that claimant was at all times a loyal citizen of the United States and that the property was taken and used by the Army, and report back the bill and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 37.

R. H. CRIDER.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1225.]

The Committee on War Claims, to whom was referred the bill (H. R. 1225) for the relief of R. H. Crider, submit the following report:

The history of the claim is fully set forth in House report from the Committee on War Claims, first session, Fifty-first Congress, which is appended as a part of this report.

Your committee recommend that the bill do pass.

[House Report No. 1354, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1612) for the relief of R. H. Crider, report as follows:

Your committee adopt the report, hereto annexed, from the Committee on War Claims of the Fiftieth Congress, and report back the bill and recommend its passage.

[House Report No. 1993, Fiftieth Congress, first session.]

The Committee on War Claims, having considered the bill (H. R. 1057) for the relief of R. H. Crider, recommend that the bill be amended in the sixth line by striking out the words "eight hundred" and inserting the words "two hundred," and that the bill as amended do pass.

R. H. Crider is a citizen of Carroll County, Tenn., and the proof shows that he took the oath of allegiance to the Government of the United States about the 25th day of May, 1862, and thereafter proved himself true and loyal to the said Government. In September, 1862, a horse, valued at $300, was taken (for the purpose of mounting one of his soldiers) by Capt. P. K. Parsons, of the Seventh Tennessee United States Cavalry. The receipt of Capt. Parsons is filed as a part of the evidence in the case, and while the affidavits filed by Mr. Crider and three of his neighbors state the value of the horse at $300, the horse being a fine stallion, the committee think $200 as much as the Government paid for any class of horses for the use of the Army at that time. The affidavits of claimant and other witnesses show the taking of other property after claimant had taken the oath of allegiance. This proof is too general and indefinite, in the absence of any receipt, to found a judgment upon, and that part of the claim is rejected, leaving the one item of $200 as recommended in the amendment proposed to the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 34.

ANTHONY KOONS.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2284.]

The Committee on War Claims, to whom was reported the bill (H. R. 2284) for the relief of Anthony Koons, report as follows:

This is a claim for one horse furnished by the claimant to the Army of the United States during the late war. Claim stated at $150.

The loyalty of the claimant and the taking and use of the property are fully established by competent witnesses, and your committee is of opinion that the claimant should be reimbursed, and they report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 39.

CUMMINGS, DOYLE & CO., AND DOYLE & CO.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2581.]

The Committee on War Claims, to whom was referred the bill (H. R. 2581) for the relief of Cummings, Doyle & Co., and Doyle & Co., submit the following report:

The history of the claim is set forth in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 273, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3129) for the relief of Cummings, Doyle & Co., and Doyle & Co., report the following:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own and report back the bill and recommend its passage.

[House Report No. 1492, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 588) for the relief of Cummings, Doyle & Co., and Doyle & Co., report as follows:

The facts in the case are as stated in the petition of the claimants, which is as follows:

To the honorable the Senate and House of Representatives in Congress assembled:

Your petitioners, Cummings, Doyle & Co., and Doyle & Co., of Nashville, Tenn., respectfully represent that they are and always have been loyal citizens of the United States. That during the late war they were the owners of certain buildings located in the city of Nashville, Tenn., which they rented under contract to the United States Army, as will more fully appear by reference to the papers with claim No. 24358, on file in the Third Auditor's Office, Treasury Department.

Your petitioners would further represent that through the failure of the officer of the Quartermaster's Department stationed at Nashville, Tenn., to pay the rent due your petitioners under said contract, they suffered a loss of $2,285, receiving in lieu thereof regularly certified vouchers for that amount, which amount is still due them and remains unpaid. That relying upon the justness of their claim they subsequently made application for the payment of the amount due them under said contract, and filed the said vouchers through the proper Departments of the Government, but that

payment was refused them by the accounting officers of the Treasury upon the plea that they "had no jurisdiction of this class of claims."

Therefore, in consideration of the facts set forth, and which will be found fully substantiated in claim No. 24358, on file in the Third Auditor's Office, Treasury Department, your petitioners pray that your honorable bodies may authorize and direct the Secretary of the Treasury to pay to your petitioners the sum of $2,285, in full for rent due them as heretofore stated, upon the vouchers referred to.

And your petitioners will ever pray.

CUMMINGS, DOYLE & CO.
DOYLE & CO.
By D. W. GASSIE,
Attorney in Fact.

WASHINGTON, D. C., *December, 1874.*

Your committee is of the opinion that it is the duty of the Government to pay the debt according to the agreement as shown in the certificates of the quartermaster, and report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 40.

SARAH L. HENDERSON.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUTLER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 723.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 723) granting a pension to Sarah L. Henderson, submit the following report:

Sarah L. Henderson, in February, 1862, was appointed and duly commissioned as a nurse in the United States hospital service, by Rev. Samuel P. Sloane, under authority from the United States Sanitary Commission, and was first assigned to duty in the United States hospital at Davenport, Iowa. She served there nearly one year. She was next assigned to duty, by James E. Yeatman, president of the Western Sanitary Commission, in Lawson General Hospital, at St. Louis, Mo., January 16, 1863, where she served till April, 1863, when her health gave way and she was discharged.

This service record, so far as Lawson General Hospital is concerned, is established by report from the War Department on file with this case. The prior service, at United States hospital in Davenport, Iowa, is supported directly by the affidavit of Mrs. Henderson herself, and indirectly supported by various organizations, which, under seal, state her service as covering fifteen months during years 1862 and 1863. Among the associations so stating are Hervey Dix Post, No. 371, Grand Army of the Republic, and Women's Relief Corps, No. 69, both under the jurisdiction of said organizations in Iowa.

The good standing and character of this lady are attested by numerous associations, among them being the two above named, and the Clayton County (Iowa) Veterans' Association. The same is cordially attested by Mrs. Clara Nichols, division president Women's Relief Corps for Iowa.

The same organizations, as well as the affidavit of Mrs. Henderson herself, support the fact that Mrs. Sarah L. Henderson is in destitute circumstances and greatly in need of the relief asked; also that she is past 71 years of age and in very feeble health.

Your committee regard a case of this kind as being as much entitled to their support and favor as any other branch of the military service, and therefore report the bill back with the recommendation that it do pass after amending the same by striking out the word "twenty," in the fifth line of said bill, and inserting in its stead the word "twelve," so as to read: "at the rate of twelve dollars per month."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 41.

ESTHER DOOLITTLE.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUTLER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 721.]

The Committeee on Invalid Pensions, to whom was referred the bill (H. R. 721) granting a pension to Esther Doolittle, submit the following report:

Esther Doolittle, formerly Esther Tyrrell, in November, 1861, began service as hospital and army nurse, and continued in such service until July, 1864.

During this time she served first in hospital at Pacific City, Mo.; second at Cassville, Mo.; third as army nurse in general and post hospitals at Springfield, Mo.; fourth at Fayetteville, Ark.; after which she joined the Sanitary Commission under Mr. Yeatman at St. Louis, Mo., and served under him as army nurse until she was relieved in July, 1864.

The service as nurse in the general hospital at Springfield, Mo., is shown by the report from the War Department, filed with this case.

The service as nurse at Pacific City, Mo., where she attended the sick soldiers of the Ninth Iowa Regiment, is attested by the late lieutenant-colonel of said regiment, Alonzo Abernethy. He says:

> Mrs. Tyrrell (Mrs. Doolittle) came down at the first call for aid, and remained constantly and untiringly laboring for the relief and comfort of our sick. In our section she was commonly reported to be the first army nurse who had volunteered to go and serve at the front.

The fact of Mrs. Doolittle's general service is fully confirmed by many soldiers of the Ninth Iowa Volunteers, as also by full affidavit by herself.

Sixty-eight members of the G. A. R. organization and W. R. C. of West Union, Iowa, attest Mrs. Doolittle's excellent character, as also her destitute condition.

The same persons mentioned above, who have known this lady, both as Mrs. Tyrrell, and later as Mrs. Doolittle, confirm the fact of this applicant, Mrs. Doolittle, being the identical Mrs. Tyrrell who served as army nurse, which fact is also confirmed by affidavit of this applicant.

This lady is now 82 years of age and fully deserving the aid asked.

Your committee deem this class of cases as being as much entitled to support and favor as any other branch of the army service, and therefore report the bill back with the recommendation that it do pass, after amending the same by striking out the word "twenty," in the fifth line of said bill, and inserting in its stead the word "twelve;" so as to read, "at the rate of twelve dollars per month."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 42.

HUGH M. HENSON.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2292.]

The Committee on War Claims, to whom was referred the bill (H. R. 2292) for the relief of Hugh M. Henson, report as follows:

It appears by the papers on file that in the years 1861 and 1862 the United States naval forces took from the claimant, in Lyon County, Ky., 50,000 pipe staves of the value of $3,000. Said staves were used by the gunboats as fuel.

The taking of the property and the loyalty of the claimant is fully established, and your committee are of opinion that the claimant should be paid, and report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 43.

WILLIAM H. HUGHES, ADMINISTRATOR OF DAVID UNSELL, DECEASED.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2189.]

The Committee on War Claims, to whom was referred the bill (H. R. 2189) for the relief of William H. Hughes, administrator of the estate of David Unsell, deceased, submit the following report:

The Committee on War Claims of the Forty-ninth Congress, to whom was referred the above-mentioned claim, not being fully and clearly advised of all the facts in said claim, referred the same to the Court of Claims for a finding of facts, under the provisions of the act of March 3, 1883, known as the "Bowman act."

The claim has been returned to said committee by the Court of Claims with the following findings of fact:

[Court of Claims, Congressional Case No. 165. William H. Hughes, administrator of David Unsell, deceased, *v.* The United States.]

FINDINGS OF FACT.

The claim or matter in the above-entitled case was transmitted to the court by the Committee on War Claims of the House of Representatives on the 15th day of December, 1884.

George A. King, esq., appeared for claimant, and the Attorney-General, by James H. Nixon, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on the 13th day of April, 1891, the court, upon the evidence and after considering the briefs and arguments of counsel on both sides, finds the facts to be as follows:

I.

The claimant, William H. Hughes, is administrator of the estate of David Unsell, deceased. (Letters of administration granted May 8, 1880, by county court of Ballard County, Ky.)

II.

Said David Unsell gave no aid or comfort to the late rebellion against the United States, but was throughout the war loyal to the Government of the United States.

III.

Early in the autumn of 1861 the steam ferryboat *Lucy McConnell*, belonging to said David Unsell, was taken possession of by a detachment of the Nineteenth Regiment of Illinois Infantry Volunteers, commanded by Col. Turchin, at Fort Jefferson, in the

State of Kentucky, and was taken and used by the military forces of the United States as aforesaid and run to Cairo, Ill., and while returning thence, and under the charge and control of said forces, and when at or near Norfolk, Mo., 5 or 6 miles from said Cairo, said boat ran upon a stump or log and was totally wrecked. Said steamboat *Lucy McConnell* was about 150 feet long and about 30 feet wide, in good condition, and was at the time of her seizure and loss of the value of $5,000. It does not appear that any compensation has been made either to said decedent or claimant.

BY THE COURT.

Filed April 27, 1891.
A true copy.
Test, this 7th day of January, A. D. 1892.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

Your committee recommend that said findings of the Court of Claims be carried out by the passage of the bill, which is in harmony with the conclusions reached by the court.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 44.

HENRY WARE.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2159.]

The Committee on War Claims, to whom was referred the bill (H. R. 2159) for the relief of Henry Ware, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

House Report No. 1523, Fifty-first Congress, first session.

Mr. MAISH, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2871.]

The Committee on War Claims, to whom was referred the bill (H. R. 2871) for the relief of Henry Ware, have considered the same, and report as follows:

The facts gathered from the papers, and evidence accompanying the claim, show that the petitioner, Henry Ware, is a citizen of Mississippi, and resides at Pass Christian, in said State.

That on or about the 1st day of December, A. D. 1865, he owned and possessed, at the city of Shreveport, in the State of Louisiana, 758 bales of cotton; that all of said cotton was of good quality, and in excellent order, and reasonably worth at that time, and at the time of the seizure hereinafter mentioned, at least 50 cents per pound; that all of said bales were legibly marked with the initials of your petitioner's name, and easily identified.

Henry G. Hall testifies about the first week in December, 1865:

I learned that R. G. Curtis, acting as special agent of the Treasury Department in Shreveport, La., had ordered a portion of Mr. Ware's cotton to be held subject to his (Curtis's) order. On 2d of January, 1866, I learned that said Curtis was about to ship 370 bales of said cotton to New Orleans. As attorney for Ware, I sued out a writ of sequestration for said cotton, which I placed in the hands of a deputy sheriff of Caddo Parish, with instructions to seize and hold said cotton, which the sheriff proceeded to do, but a military force wrested the cotton from the sheriff, and the cotton was shipped on the steam-boat *Beulah*.

HENRY G. HALL.

Joseph Boisseau, of the firm of Walsh & Boisseau, testifies:

Mr. Ware had 500 bales of cotton stored in our warehouse. I know that defendant, Curtis, seized the whole 500 bales above-named about the 1st of December. We were ordered to hold it subject to Curtis' order. The reason Curtis stated for making the seizure was, that Mr. Ware had about 60 bales which were the property of the Confederate Government. On 3d of January, 1866, 300 bales of said cotton were shipped on steamer *Beulah;* on the same day 70, by *Mattie Cook;* about 15th of January 130 bales were shipped by *Mattie Cook.*

The cotton was taken out of our possession by a military order, with an armed force, and we were compelled to ship the cotton, said Curtis ordering that it should be shipped by the above-named boats to O. H. Burbridge, special agent Treasury Department, in New Orleans. The bales were in good order, and heavy weight. We did not weigh it, but I superintended the movement of it in person. After the seizure plaintiff's agents were not allowed to exercise any control over it, nor take any precautionary measure.

Our warehouse was taken possession of by a United States military force, and we were compelled to ship it as above stated.

JOSEPH BOISSEAU.

James E. Phelps, of the firm of Phelps & Co., warehousemen of Shreveport, La., testifies—

That Henry Ware, the plaintiff, had on the 1st of January, 1866, 258 bales of cotton stored in their warehouse, marked H. W. On the 10th of January, 1866, Phelps & Co. received an order from R. G. Curtis, defendant, approved by Col. Wm. S. Mudgett, military commander of the post at Shreveport, to ship 258 bales of cotton stored with us in the name of Henry Ware. One hundred and fifty bales of this cotton were shipped by steamer *Cotile*, January 10, 1866; 108 bales were delivered to military forces about January 12, 1866, per steamer. We were not permitted to exercise any control over it. It was shipped by order of Curtis, above named, to O. H. Burbridge, in New Orleans. The cotton was in good condition and of good quality. The cotton was taken from our possession by a military force of the United States.

JAMES E. PHELPS.

The cotton was stored in a warehouse controlled by Burbridge, Jerome Bradley & Co., and used for storing Government cotton. On March 6, a delivery order was given for the release of the cotton on condition that Ware pay charges to the amount of $15,700, give bond for $300,000 to hold the agents and Government harmless, and sign clear receipt for the cotton as in condition when it was taken from him. To this Ware objected, but to prevent losing the whole of it, signed and paid $15,700 under protest, as shown in testimony of J. H. Hedges, book-keeper of Jerome Bradley & Co., who testified as follows:

I was in the employ of Jerome Bradley & Co., in January, 1866. Seven hundred and fifty or 760 bales of cotton were received by them belonging to plaintiff, Henry Ware. Bradley & Co. were ostensibly commission merchants and were agents for receiving the cotton sent by Burbridge to this place, belonging to the Government. I saw none of the cotton repacked, but there were bills paid by me for repacking cotton in those yards. I paid on one occasion $1,000, and other amounts, I don't remember how much.

In several instances, cotton of one lot was delivered for cotton of another lot, that is, cotton was delivered to parties that was not the same received from them. Ware objected, both to Bradley and me, as to the condition of the cotton he received, and to charges made against it. He also said that some of the cotton was not his cotton. There was a blank receipt book that each party was compelled to sign before delivery. The receipt was a peculiar one, releasing the parties, and expressing full satisfaction as against the holders of the cotton. Ware objected to signing such a receipt, but was compelled to do so. He was required to pay certain charges against this cotton before delivery to him. He objected to paying these amounts. My answer was, he must pay all the charges and sign the receipt, or I would not give him an order for the cotton. I was acting under instructions from Bradley at the time. I saw a portion of the cotton on the landing when it arrived here. It was in better order than most of the cotton coming in at the time. I did not see the cotton returned to Ware. I heard Burbridge instruct Bradley about the management of the warehouse and charges of cotton. He appeared to have control over the whole concern. Ware objected to the charges, and said he did not think he was getting his own cotton back.

J. H. HEDGES.

Wm. H. Maxey testifies:

I was present during several conversations between Ware, Burbridge, Bradley & Co., or his clerk, I think in March, relative to 758 bales of cotton which Jerome Bradley & Co. were to turn over to Ware, the plaintiff. Bradley offered the plaintiff an order for the cotton if he would give him (Bradley) a clear receipt. Mr. Ware refused to give this receipt at the time, because he believed the cotton was not in the good condition as when it left him. I went with him several times; he finally gave the receipt under protest. I saw the cotton delivered to plaintiff. There were 179 bales that appeared to have been repacked, city packed, and were very light, and consisted of pickings and trash. The 179 bales were plainly substituted. There were 20 bales additional that were half gone. The appearance of the lot was very bad; the worst I ever saw; some appeared to be rotten; can't say the number; it appeared as if the rotten packings had been gathered and formed into bales.

WM. H. MAXEY.

W. T. Scott testified that he was present when the conversation referred to by Mr. Maxey between Mr. Ware, Burbridge and Bradley, and states substantially the same as that stated by Mr. Maxey; also as to the condition of the cotton when received from Bradley. (See page 56.)

Wm. H. Ware, Wm. A. Randolph, and Isaac Randolph, all testify as to the bad condition of the cotton when returned, its value, etc., on page 73 to 76, printed transcript.

J. A. Campbell, ex-judge of the United States Supreme Court, testifies as follows:

I applied to Major-General Canby to know if he would interpose any opposition to a suit at law in Ware's behalf. He said he would do so, whether process came from the courts of the United States or of the State. He read some order from the War Department which gave him general instruction to protect these agents, which he construed to comprehend protection from judicial or other interference. (See page 114, printed transcript.)

Petitioner denies that he was opposed, as has been stated, to submitting his cause to the United States courts, and submits the following:

Personally appeared before me, S. A. Terry, a notary public duly appointed and qualified, for the City of Washington and District of Columbia, Henry Ware, now a citizen of Pass Christian, and State of Mississippi, who on oath states that on the 13th day of February, 1866, he called on Major-General Canby and laid before him all the evidence contained in documents A and B in relation to his cotton, and importuned with General Canby to give him the protection that the military had prevented the civil law from giving him, otherwise permit him to seek redress through the United States district court; all of which was denied him, Canby saying "You must look to Burbridge for your cotton."

HENRY WARE.

Subscribed and sworn to before me this 28th day of March, A. D. 1890.

S. A. TERRY,
Notary Public.

The petitioner bases his claim for relief upon the following facts and rules of law applicable thereto:

First. He was the owner and in possession of all of said cotton, to wit, 758 bales at the time of the said original seizure.

This is clearly established by the testimony of the following-named witnesses, sworn and examined in said cause, as appears from said transcript: Buckner H. Scott, Eugene B. Blocker, John Rain, A. D. Lister, John M. Waskom, Joseph Boisseau, L. H. Durr, Benjamin Johnson, James E. Phelps, and also by the admission of said defendants contained in their pleadings and by the judgment of said court.

Second. That your petitioner would not have suffered any considerable loss or damage unless the civil process of the State of Louisiana, issued immediately after said seizure, had been interruped by the military interference of an officer of the Army of the United States.

Such interference is proven by the testimony of the following witnesses: Henry G. Hall, Joseph Boisseau, James E. Phelps.

Third. The Government of the United States employed and paid counsel for conducting the defense of all the defendants in the suit hereinbefore referred to.

This proposition is abundantly proven by the affidavit of Charles Case, of the firm of Case & Rouse, attorneys at law in the said city of New Orleans, of which the following is a true copy:

STATE OF LOUISIANA, *City of New Orleans:*

Charles Case, of the firm of Case & Rouse, attorneys at law in New Orleans, being duly sworn, says that in the suit of Henry Ware *v.* O. H. Burbridge *et als.*, for damages on 758 bales of cotton seized by the United States officers in the fourth dis-

trict court of New Orleans; that the said firm of Case & Rouse was employed for the defense by Mr. McCulloch, Secretary of the United States Treasury, and were paid for their services by the United States Government.

CHAS. CASE.

Subscribed and sworn to before me on this 30th day of March, A. D. 1872.
[L. S.] J. G. EUSTIS.
Notary Public.

It appears from the evidence and comparison of dates that at the time the defendants petitioned to remove cause from the State to the United States courts, the petitioner did not know that the Secretary of the Treasury indorsed or sustained the illegal acts of the said Burbridge and Curtis. It is shown from the letters from the Secretary of the Treasury to Chas. Case (inserted in this report), that he employed the said Chas. Case, to defend the case on the 27th of November, 1867, one year after the petition to remove cause was filed, November 28, 1866.

It is also shown by General Canby's order, dated May 14, 1866, that the President of the United States had recognized the suit, giving civil courts unlimited jurisdiction, over six months previous to the petition to remove cause.

The position taken by the petitioner that the acts of Burbridge and Curtis were illegal, and also the acts of Major-General Canby in causing an armed force of the Government to take the cotton out of the sheriff's hands and send it to New Orleans and place it in a Government warehouse under the entire control of O. H. Burbridge and maintain the possession by military force until all the damages complained of were sustained, as is clearly proven, makes the Government liable, is well taken, and under the circumstances that then existed petitioner's undertaking to collect damages from the officers that made themselves liable, but failing to do so it does not exonerate the Government from the liability it incurred by furnishing its military power to deprive a citizen of his property, as is clearly shown by the evidence in this case.

Had the petitioner made no effort to protect himself against the unlawful acts of these agents there might be some consistency in the plea that the Government is not liable. But the case being full of evidence that he made every effort in his power to protect himself against such acts, and was confronted at every point by the military and civil power of the Government, there is neither consistency, law, or equity to sustain such a plea on the part of the Government.

This is confirmed by two letters in the files of the Secretary of the Treasury, written to the said Charles Case, of which the following are true copies:

WASHINGTON, D. C., *November* 7, 1867.

DEAR SIR: When you return to New Orleans, please look into and examine certain suits instituted in the courts of New Orleans against O. H. Burbridge, supervising special agent of the Treasury Department, with a view to determining and advising me whether or not the Government should assume the defense of said suits, and also to take such steps as may be necessary for their defense, if in your opinion, that course should be pursued.

H. MCCULLOCH,
Secretary of Treasury.

MR. CHARLES CASE.

WASHINGTON, D. C., *December* 27, 1867.

MR. CHARLES CASE:

I have received your letter of 13th instant in relation to suits against Mr. Burbridge in answer to mine of November 7 last.

I concur generally in the opinion expressed by you, and I will thank you to take the necessary steps in connection with Sulliven, Billings & Hughes to defend those

of the cases which, in your judgment, should be defended by the United States Government.

In view of Mr. Burbridge's possible personal unfaithfulness and neglect, for which the Government is not bound to indemnify, you will please be careful that the appearance of counsel on behalf of the United States be made with great care, so as not to admit any liability on part of the Government.

H. McCulloch,
Secretary of the Treasury.

Fourth. The Government of the United States had full knowledge of the pendency of the suit above mentioned, as appears from two certain orders, which explain themselves, of which the following are true copies:

[Special Orders No. 91.]

Headquarters Department of Louisiana,
New Orleans, April 24, 1866.

In the case of Henry Ware *v.* Oscar H. Burbridge, Robert G. Curtis, Jerome Bradley, and William S. Chapman, in the fourth district court of New Orleans, it appearing that the case comes within the contemplation of General Orders No. 9, current series, from the War Department, all proceedings therein are dismissed and set aside.

By order of Maj. Gen. E. R. S. Canby.

Wickam Hoffman,
Assistant Adjutant-General.

Official.

Nathaniel Burbank,
First Lieut., Acting Assistant Adjutant-General.

[Orders from General E. R. S. Canby, Special Orders No. 108.]

Headquarters Department of Louisiana,
New Orleans, May 14, 1866,

By direction of the President, paragraph 1, Special Orders No. 91, current series, from these headquarters, is hereby rescinded, and the civil courts are vested with unrestricted jurisdiction in the case of Henry Ware *vs.* Oscar H. Burbridge, Robert G. Curtis, Jerome Bradley, and William S. Chapman, pending in the fourth district court of New Orleans.

By order of Maj.-Gen E. R. S. Canby:

Nathaniel Burbank,
First Lieut., Acting Assistant Adjutant-General.

Official:

Nathaniel Burbank,
First Lieut., Acting Assistant Adjutant-General.

It appears clearly from these orders, not only that the President of the United States and the general in command of the military forces of the United States of this Department had actual knowledge of the pendency of said suit, but that they likewise fully recognized and submitted to the jurisdiction of the court, both as to parties and the subject-matter.

The learned judge, before whom the case was tried, in making up his decision awarding damages, says:

The facts of the surrender are that 555 bales of the same cotton was returned, but spoiled of a portion of their contents. Of the remainder, 200 other bales and parts of bales of cotton of an inferior quality and of less weight were redelivered. These bales were not accounted for in any manner.

The defendants justify their course by affirming that Burbridge was the supervising agent of the Treasury of the United States for Louisiana, under the acts of Congress of the 3d of March, 1863, and 2d of July, 1864, relative to captured and abandoned cotton and other property; that Curtis was his assistant and Jerome Bradley & Co. were warehousemen in his employment; that Curtis received information in 1865 that the plaintiff had in his possession 35 or 40 bales of Confederate cotton, and owed

the Confederate States 15 bales under their law imposing taxes; that to ascertain and collect this claim the 758 bales of the plaintiff (your petitioner) were seized and sent to New Orleans, by order of Burbridge, "for adjudication," and that they were detained for this inquiry till the surrender in March.

The courts, Federal and State were open. Civil order was restored, except when violated by such agencies as this.

The plaintiff sued out a writ of sequestration at Shreveport to secure his property. The sheriff executed this writ, but by the influence of Curtis a provost-guard dispossessed him, and the property was sent to New Orleans under the order of Burbridge.

There was co-operation, concert, countenance, by all to the acts of each, from the seizure at Shreveport to the surrender at New Orleans. In order to constitute a joint conversion it is not necessary that all the acts should be contemporaneous, provided the acts tend to the same results, nor that the parties should have the actual *manu-caption* of the property at the same time; but the trespass by all is complete when there is intermeddling with, or dominion over the property of another, subversive of his rights, and all act in concert or with a common purpose. (2 Hilliard on Torts, 441–445.)

The learned judge continues:

The only remaining question is one concerning damages. In March, 1866, the delivery order was given for 758 bales of cotton that had been seized and stored with Bradley & Co., subject to the payment of charges amounting to the large sum of $15,700. Five hundred and fifty-five bales were delivered of the same cotton, but with marks of having been spoiled of more or less of their contents. The average weights of these were 444 pounds. At this time other cottons were given for the remainder, but marked with the same mark as the other. Of these 159 bales average in weight 393 pounds, of an inferior quality. Another lot weighed 350 pounds, and this lot was so unmerchantable as to be sold in bulk at $40 per bale. Those bales were not accounted for in any manner or form. A large expense was incurred in putting this cotton in good order for sale.

Ware was allowed no access to his cotton after its seizure, and it was not weighed until after its delivery to him in March. Under such circumstances it does not appear how he could have given better evidence than he has of the weight or quality of the cotton.

I shall assume that it weighed 500 pounds on an average, and was of the quality of low middling, and shall allow him the price such cotton brought in New Orleans in January, 1866, when it came here. It was worth more on the 2d day of December, when it was seized. The quantity of cotton above mentioned, and at the prices above mentioned, must be accounted for. The defendants will be allowed as a deduction the money obtained for the cotton sold as proven and the price of low middling in New Orleans in March for the 555 bales, according to their weight at that time. The defendants can not be allowed for any money paid for insurance. No proof of any insurance is made except in the accounts of Burbridge.

It does not appear that the policies were made for Ware, or that he could have indemnified himself from them in case of a loss.

Nor can any of the charges that are personal to Bradley & Co. be admitted; as warehousemen, their conduct was scandalous. Two hundred bales of the cotton were replaced by other cotton marked in the name of the plaintiff.

All of the cotton was the object of spoliation. They were trespassers, and can not be allowed an advantage or profit from their own wrong.

The freight on the cotton, when it exceeds $5 per bale, will be reduced to that sum, and the charges on the cotton at Shreveport that have been paid are allowed.

Interest will be allowed on the whole sum by way of damages from judicial demand.

There are losses that the plaintiff has sustained that have not been taken into account. The journeys he has made, the expenses he has incurred, the anxiety he has suffered, the outrage he has endured from arbitrary, violent, insolent, and oppressive conduct, have not been taken into account.

Now to recapitulate.

The defendants must return the amount paid to them by plaintiff for insurances, and which the court disallows, to wit:

Full amount of the bill paid	$7,703.00
They must also return the full amount of the bill paid to Jerome Bradley & Co for charges, they being credited with the proper allowance hereafter	7,982.44
They must be charged with the full price which the 758 bales of cotton (at 500 pounds, making 379,000 pounds, at 45 cents) would have brought at low middling	170,550.00
Total	186,235.44

And the said defendants must be credited as follows:		
Amount of freight allowed, 750 bales, at $5	$3,790.00	
Amount of charges found correct and paid at Shreveport	1,053.13	
Amount of the sales of the cotton returned, as follows:		
556 bales, 246,436 pounds, at 39 cents	96,109.04	
154 bales, 60,501 pounds, at 30 cents	18,150.30	
5 bales, 1,988 pounds, at 20 cents	397.60	
21 bales, 7,351 pounds, at 15 cents	1,102.65	
14 bales, at $41 per bale	574.00	
2 bales, 1,020 pounds, at 24 cents	244.80	
		$121,241.52
Amount due by defendants		64,813.92

The evidence in this case is abundant, and the character and standing of witnesses as honorable citizens, worthy of confidence, are indorsed by official certificates of Judge Bonfoy and Clerk Woodall, of Harrison County, Tex. These certificates also show standing of petitioner as opposed to secession and during the war advocating a convention of the States. Certificates to be found in documents A and B. The President's pardon and amnesty dated October 23, 1865, show that at the time of the seizure petitioner was a loyal citizen and entitled to protection as other citizens of the United States.

The evidence discloses the fact that the seizure was directed by R. G. Curtis and consummated at Shreveport, La., by an armed force. This is sustained by testimony of Henry G. Hall, Joseph Boisseau, and James E. Phelps. The cotton was shipped by military force to New Orleans, stored in a Government warehouse controlled by Burbridge. The seizure was sustained by Major-General Canby until after all the damages complained of were sustained. This is proven by testimony of Henry Ware, Judge John A. Campbell, and General Canby's orders.

It is also proved by Charles Case, of the firm of Case & Rouse, also by two letters on file, written to Case, in Treasury Department, showing that the officers who seized the cotton were defended by the Treasury Department up to the rendering of the judgments, two years after the partial release was made. Your committee is of the opinion that the Government, in justice to itself, should pay the damages. If it does not, it places two of its highest officers in a more disreputable attitude than that of Curtis and Burbridge. Curtis might have had some reason to think Ware had 50 or 60 bales of Government cotton until the contrary was proven, on February 13, 1866, a few days after the cotton reached New Orleans. All the evidence on which the release was made was shown to General Canby and submitted to O. H. Burbridge, and had been sent to Secretary of the Treasury, as the dates show, about two years before Case was employed to defend the suit. The course pursued by these two high officers can only be accounted for from General Canby's construction of Order No. 9 from the War Department, which he especially referred to as a justification of his action.

Your committee can see no reason founded either on law or equity why the Government should not pay the damages in this case. Therefore we recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 45.

HYPOLITE FILHIOL AND OTHERS.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 65.]

The Committee on War Claims, to whom was referred the bill (H. R. 782) for the relief of Hypolite Filhiol *et al.*, of Louisiana, report as follows:

On the 27th and 28th of August, 1863, the Army of the United States took from the claimants' plantation, in Ouachita Parish, La., stores and supplies of the alleged value of $4,825, all then owned in equal shares by Hypolite Filhiol, Edward L. Betin, and Charles D. Betin. The said Betins had been, the one wholly the other almost wholly, blind from birth, in consequence of which their education and knowledge were very limited. They lived in the family of said Filhiol, on said plantation, and were taken care of by him and their business affairs managed by him.

The said Filhiol filed a claim, with the knowledge and consent of said Charles D. Betin, before the Southern Claims Commission for pay for all of said property, which claim was rejected for alleged disloyalty of said Filhiol. No other action has been taken on said claim, except to refer it to the Court of Claims under the provisions of the Bowman act, but such reference, it has been decided, took to the court only the one-third that Mr. Filhiol owned, and that a reference of the whole claim under the provisions of the act of March 3, 1887, commonly known as the Tucker act, is necessary to give the court jurisdiction of the two-thirds owned by the Betins.

Your committee therefore report herewith a resolution referring the claim to the Court of Claims under the provisions of the Tucker act, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 46.

MOBILE MARINE DOCK COMPANY.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 1047.]

The Committee on War Claims, to whom was referred the bill (H. R. 1047) for the relief of the Mobile Marine Dock Company, submit the following report:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 3253, Fifty-first Congress, second session.]

The Committee on War Claims, to whom was referred the bill (S. 371) for the relief of the Mobile Marine Dock Company, report as follows:

Your committee adopt the report made by the Committee on Claims of the Senate of the present Congress, and report back the bill and recommend its passage, and annex herewith a copy of similar report for information.

[Senate Report No. 488, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 371) for the relief of the Mobile Marine Dock Company, having carefully examined the same, respectfully report.

We adopt the report of this committee made during the first session of the Fiftieth Congress, and recommend the passage of the bill.

The bill passed the Senate last Congress.

[Senate Report No. 484, Fiftieth Congress, first session.]

This claim was before the committee at the first session of the Forty-eighth and Forty-ninth Congresses and was fully investigated and favorably reported. The committee in considering the case have deemed it proper to deduct item "F," for $15,936.16, in the account for "cost of repairing dock," from the aggregate account of $101,938.81, which would leave a balance of $86,002.65. This view was taken by the committee in its report at the first session of the Forty-ninth Congress, and upon a reëxamination of the claim your committee is of opinion that as the repairs to the property were all made subsequent to the time that it was turned over by the Government to the owners and the petitioner received pay for the use and occupation of the property, the item should not be allowed.

The committee would therefore report the bill favorably and recommend its passage.

The following is Senate Report No. 190, first session of the Forty-ninth Congress, and also Senate Report No. 565, first session Forty-eighth Congress:

After the capture and occupancy of the city of Mobile, in April, 1865, by the U. S. Army, it was determined that the interests of the Government demanded the occupancy and use of the property of the Mobile Marine Dock Company. The monitor *Osage* and the *St. Mary* had been sunk in the bay. Other naval vessels required repairs, and the transports belonging to the Quartermaster's Department had to be refitted and kept in repair for the collection of the commissary, ordnance, and quartermaster's stores and the large amount of cotton which had belonged to the Confederate authorities. There was no other marine dock south of Charleston, those at New Orleans having been sunk.

The Mobile Marine Dock Company owned the requisite material for the repairing of the vessels of the Navy and of the Quartermaster's Department, and such materials could be found nowhere else on the Gulf coast, except at New Orleans. It was under these circumstances that the Government officials informed the officers of the Mobile Marine Dock Company that the interests of the Government required that the dock property should be either condemned for public use and paid for, or else that it should be placed under the exclusive control of the Quartermaster's Department for such time as the protection of Government interests might require, and for it then to be returned to the officers of the company with reasonable compensation for the services rendered. The company elected the last alternative, and the property of the company, with its entire organized working force, including the superintendent and employés, were, on the 16th day of April, 1865, placed under the exclusive direction and control of the Quartermaster's Department and in the service of the Government. This control and service continued for seven months—until the 16th day of November, 1865—when it was redelivered to the officers of the company, after such use of material and such damage to the dock as the protection of Government interests rendered necessary and unavoidable.

Capt. Runkle was the first quartermaster placed in charge of the dock property, and whilst under his direction the important work of raising and repairing the monitor *Osage* and the ship *Saint Mary*, and the repairing of five other vessels of the Navy, was completed. After Capt. Runkle, Capt. Ford was given control of the dock property; and after Ford, Capt. Stewart was placed in charge, and so continued until relieved by the chief quartermaster of the Department of Alabama, Col. M. D. Wickersham, who then took charge, and soon thereafter restored the property to the control of the officers of the company. When the property was thus restored, the company, through its proper officers, made immediate claim for the promised "reasonable compensation," or else for the proper vouchers on the Quartermaster's Department to insure such payment. To this demand Col. Wickersham replied that the work not having been done under his personal direction he had no such knowledge as would justify him in either paying the demand or in giving for it the usual quartermaster's vouchers, but that he would, as he did, turn over to the company the quartermaster's book and all the orders and vouchers for material furnished and work done which would be necessary for the making out and substantiating the claim. From the quartermaster's book and the orders and vouchers thus furnished the claim of the company was made out, and by the direction of the local military authorities was presented to the War Department for payment. The claim, having been referred to the Quartermaster-General, was returned by that officer to the War Department on the 20th day of June, 1868, with the remark that "under the act of February 21, 1867, claims arising in the State of Alabama during the rebellion could not be paid."

The claimants, on the presentation of their claim, had made request that a commission might be appointed to investigate and report upon the integrity of their claim and the correctness of the charges for services and material. Accordingly, after the return of the papers by the Quartermaster-General, the "board of claims" of the War Department made a preliminary report, recommending that the chief quartermaster and the assistant inspector-general of the department of the South be deputed to make the investigation requested, with instructions to report through the Quartermaster-General. This recommendation was approved by the Secretary of War. The officers designated made their report to the Quartermaster-General in October, 1868, and it was forwarded to the Secretary of War by the Quartermaster-General on the 22d day of December, 1868, with the remark that the dock must have been used in aid of the rebellion, and was therefore, liable to confiscation, and the owners were fortunate in having regained possession of their property through the leniency of the Government or the neglect of the officers in failing to institute legal proceedings for its confiscation; that the acts of Congress only authorized the confiscation of property of *natural* persons. They did not make the property of an *artificial* or incorporated body confiscable; therefore, the property in question was not liable to confiscation. This report, and all the papers submitted with the claim of the company, were then referred to the "board of claims" of the War Department, of which James A. Hardie, inspector-general and brevet major-general, was president, and George Gibson,

major and brevet lieutenant-colonel, U. S. Army, was recorder. The board, on the 25th day of March, 1869, submitted this report, in which they say:

The amount of the charges, it is believed by the board, in view of the testimony collected, may reasonable be presumed to represent the value of the work done and of the material used. * * * The amount of damages to the dock, it may be presumed, was incurred.

The board find the facts to be substantially as follows. The claim is thus stated:

A. For seven vessels docked and repaired and materials furnished by order of Admiral Thatcher, U. S. Navy	$27,070.95
B. For twenty-four vessels repaired by order of the military authorities	32,799.10
C. For four vessels of private owners docked and repaired by order of the military authorities	2,553.70
D. For lumber delivered for army purposes	7,997.55
E. For material, etc., taken possession of by the Quartermaster's Department, April 16, 1865	15,781.35
F. Cost of repairing dock	15,936.16
Total	101,938.81

For arriving at the conclusion that the claim as thus stated might be accepted as substantially correct, the "board of claims" had before them the testimony of the officers of the company, of the quartermaster's clerk, of the quartermaster's book, of over a hundred quartermaster's vouchers, and the report of the commission appointed to proceed to Mobile and make careful examination into and report all matters touching the validity of the claim. It was after an evidently scrutinizing examination of this testimony that the board arrived at the result stated, and declared they had "exhausted the testimony."

There is no conflict in the testimony furnished by the company and that given in the report of the commission; on the contrary, there is entire agreement as to all material facts. That the claim is, in the language of the board, "substantially correct," is either frankly admitted or silently acquiesced in by all the Government officers whose duty it was made to examine into the matter. Nor is there any issue taken with the testimony of the company that the dock and material were by contract passed into the hands of the Quartermaster's Department under the explicit promise to allow and pay a "reasonable compensation" when the Government work should have been completed and its value ascertained. The change of quartermasters given charge of the property prevented a compliance with the contract, but that the obligation existed, as proved by the officers of the company, is not only corroborated by the action of the chief quartermaster in delivering to the company the quartermaster's book, with the orders and vouchers which were indispensable to the ascertaining and substantiating the claim, but is sanctioned in a communication from the chief quartermaster, who states, among the reasons for the noncompliance with the contract, the fact that a large portion of the claim was chargeable to the Navy and not to the Quartermaster's Department.

In its exhaustive examination of the matters of the dock company the "board of claims" gives the classification of a furnished list of stockholders, showing that while the chief interest and control was held by parties loyal to the Government, only eight small stockholders had given support to the rebellion.

Having completed its statement of the facts involved in the claim, the board in concluding its report suggests doubt as to the scope of the acts of Congress in limiting the authority of the War Department to pay any claims arising in States which had been declared to be in rebellion. In deference to this expressed doubt of the board of claims, Secretary Rawlins referred the claim of the dock company to the Attorney-General, with the request for his opinion upon the restraining limitation of the acts of 1864 and 1867 on the discretionary powers of the Secretary for the payment of the claim. This was done on the 3d day of April, 1869, and no response was made from the Attorney-General's office until the 3d day of January, 1872, the day after the claim was barred before the Court of Claims by the statute of limitations. The Attorney-General concludes his opinion as follows:

"I am of the opinion that the present claim originated during the war, and can not be settled by the War Department (13 Opinions Attorneys-General, 555)."

The Attorney-General bases his opinion upon the assumed fact that the "dock" is real estate; whereas the "dock" is made of wood and iron, and floats on the water. Besides this, the opinion of the Attorney-General was given before the decision of the Supreme Court in the case of The Union Bank *vs.* The Planters' Bank (16 Wall., 485), and is in conflict with the principles of that and subsequent decisions. The fact of contract and entailed obligation to pay "reasonable compensation" is not considered in the Attorney-General's opinion. The opinion, however, was accepted by Secretary Rawlins as of controlling force in restraining him from paying the claim; and the retention of the papers in the Attorney-General's office from the 3d

day of April, 1869, to the 3d day of January, 1872, the day after the barring of the claim from the Court of Claims by the statute of limitations, left to the company no tribunal for redress but the Congress of the United States.

The company being incorporated, its property not being confiscable, and its shareholders, with an inconsiderable exception, being loyal citizens of the Government, were, under the decisions of the Supreme Court, entitled to compensation. In 1864, while the war was in progress, in the leading case of the *Venice* (2 Wall., 258), Chief-Justice Chase, in delivering the opinion of the court, says:

"By excepting districts occupied and controlled by national troops from the general prohibition of trade, it indicated the policy of the Government not to regard such districts as in actual insurrection, or their inhabitants as subject, in all respects, to treatment as enemies. Military occupation and control, to work this exception, must be actual; that is to say, not illusory, not imperfect, not transient, but substantial, complete, and permanent. Being such, it draws after it the full measure of protection to persons and property consistent with a necessary subjection to military government. It does not, indeed, restore peace, or, in all respects, former relations; but it replaces rebel by national authority, and recognizes to some extent the conditions and responsibilities of national citizenship."

The principles thus announced by the Supreme Court in the case of the *Venice* have been since then reaffirmed and extended by that tribunal in the case of the Union Bank *vs.* The Planters' Bank (16 Wall., 483), and in other cases.

The occupation of Mobile by the national troops was "substantial, complete, and permanent;" and national authority has been accepted and obeyed from that date.

But, beyond and above this, the fact that the property was accepted and used for seven months in the interest and to the great profit of the Government, under a contract and promise to allow and pay "reasonable compensation" after the required service should have been completed, entails upon the Government an obligation which can not be avoided, and response to which should no longer be deferred. The use of the dock property was in no degree in the interests of the war, but was simply for pecuniary advantage, and proved of saving value to the Government to an extent so great as, by comparison, to render the just compensation of the company of trifling consideration.

The following letter from Col. Wickersham indicates that this claim would have been paid promptly but for a difficulty which in no way denied its merit:

WASHINGTON, D. C., *January 31, 1883.*

DEAR SIR: The parties interested in the claim of the Mobile Marine Dock, now pending before Congress, have requested me to make to you the following statement, to wit:

Nov. 5, 1865, I was assigned Ch. Q. M. Mil. Dept. of Alabama, hdqrs. at Mobile. A large number of claims for the use of buildings, steamboats, etc., by the Union forces during the summer of 1865, were presented to me for consideration. Among said claims was the one above referred to, and this claim, though analogous to all the others, was, I believe, the only claim which I was not duly authorized to adjust and pay. Part of this claim I held to be justly chargeable to the Navy Dept., but the Gov't's liability, under an undisputed promise to pay, seemed to me clear.

About the middle of November, 1865, I transferred the dock itself to the owners. Some material claimed by the owners I found in the custody and on the books of my subordinate quartermasters in charge of that species of public property.

In due course, under proper authority, said material was sold as other surplus public stores.

Many of the shareholders in this property were poor mechanics, and they are represented by gentlemen of the highest character.

I have no pecuniary interest in this claim, and write at the request of others, and to promote, if I can, the ends of justice.

I am, sir, with great respect, etc.,

M. D. WICKERSHAM,
Late Chief Quartermaster, Department of Alabama.

Hon. ANGUS CAMERON, U. S. S.,
Washington, D. C.

It appears from all the facts in proof that this claim grows out of the use of property by the Federal authorities for public purposes and under contract with the owners of said property for such use, and for reasonable compensation therefor. Such contracts and legitimate claims growing out of them have not been denied appropriate recognition by Congress. They in no way involve the principles of that class of war claims which have been refused payment, but belong rather to the class of claims for use and occupation under contract, which, when properly proved, have been uniformly approved and paid.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 47.

BERTRAND AND GAUDIN CAZES.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3351.]

The Committee on War Claims, to whom was referred the bill (H. R. 3351) for the relief of Bertrand and Gaudin Cazes, submit the following report:

The history of the claim is fully set forth in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 1598, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1064) for the relief of Bertrand and Gaudin Cazes, report as follows:

Your committee adopt the report hereto annexed, made by the Committee on War Claims of the Fiftieth Congress, and report back the bill and recommend its passage.

[House Report No. 2060, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred House bill 5537, have considered the same and do report it to the House with an amendment, and the recommendation that, as amended, it do pass.

The committee find that in June, 1863, Bertrand and Gaudin Cazes were coöwners of 213 bales of cotton, which was stored on the Allen plantation, in the parish of Point Coupee, La.; and that during said month said cotton was seized unlawfully by the military forces of the United States, placed on board the steamer *St. Maurice*, carried to New Orleans, and delivered to the United States quartermaster there in July, 1863. Said ownership and disposition of said cotton was admitted and pleaded by the United States in the case of Claudius Maurin *v.* The United States, 480 bales of cotton, No. 624 of the claims before the French and American Claims Commission, for the purpose and with the result of defeating that claim. (See vol. 65 of the Commission's reports, pp. 16 to 20 of brief of counsel for the United States.)

The sale to and ownership of the Messrs. Cazes are proved by the depositions of Allen, page 100 of said volume; Cazes, page 290; Deplaigne, pages 362, 387, and Moniotte, page 349; and the seizure and delivery to the United States quartermaster at New Orleans by the depositions of Jones, page 25; Cazes, page 290; Rooney, pages 407, 409, 412, and Keir, page 414; and by documentary evidence, pages 494, 495, 496. The United States having allowed themselves to be sued by Maurin, and having successfully defended as to 213 bales by alleging and proving title in the Messrs. Cazes, are properly estopped from now contesting such title.

The committee further find, under the authority of the United States *v.* Crussell (14 Wall., 1), that said 213 bales of cotton were sold by the Government, and their net proceeds paid into the Treasury; and, under the authority of Ealer *v.* United States

(4 Ct. Cls. R., 372, 376), that said net proceeds amounted to $192 per bale, and aggregated $40,896; and, from affidavits on file with the record, that the claimants are citizens of the United States, and that no claim for this cotton has been heretofore made by or for them, for the reason that it was not until the Government produced the evidence in the Maurin case that Cazes knew who had taken his cotton or what had become of it.

The committee is of opinion that the claim as above stated should be paid, and therefore propose an amendment to the bill as follows:

Insert in line 5, after the word "representative," the following words: "Out of any moneys in the Treasury of the United States not otherwise appropriated, the sum of forty thousand eight hundred and ninety-six dollars, the same being."

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 48.

J. H. STOVALL AND WILLIAM HUGHES.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2314.]

The Committee on War Claims, to whom was referred the bill (H. R. 2314) for the relief of J. H. Stovall and William Hughes, report as follows:

The claim is for a large load of pipe staves taken from the claimants by the Army of the United States during the late war. Claim stated at $5,250.

The proof filed in support of the bill shows that the claimants were the owners of 50,000 white oak pipe staves worth $100 per 1,000, and one barge and fixtures worth $250; that in September, 1861, United States troops burned the barge and staves to prevent the Confederate soldiers from using the barge as a ponton or bridge in crossing the Mayfield Creek and attacking Fort Holt, Ballard County, Ky.

The proof filed in support of the claim shows that the claimants were loyal to the Government of the United States throughout the late war, and that the destruction of the property was wholly unnecessary, and your committee therefore report back the bill and recommend its passage.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 49.

ALLARD & CROZIER.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2224.]

The Committee on War Claims, to whom was referred the bill (H. R. 2224) for the relief of Allard & Crozier, report as follows:

This claim is for 200 barrels of flour taken from Allard & Crozier, of Paducah, Ky., on the 6th day of September, 1861, by order of Gen. E. A. Payne, commanding United States troops at that point.

Gen. Newsham, in reply to a letter of inquiry from Gen. A. B. Eaton, Commissary-General, under date of September 4, 1874, says:

> The flour, amounting to 360 barrels, and all other property in the depot was turned over in my presence by order of Gen. Payne to William G. Pinckard, lieutenant and acting assistant quartermaster, for use of the troops. The said flour belonged to Mr. Slack and to Allard & Crozier, of Paducah. Mr. Slack claimed 160 barrels and Messrs. Allard & Crozier 200 barrels. I may have given these gentlemen receipts for the above within a day or two or so after the capture of Paducah, but at this length of time I can not be certain. The flour was not paid for, but was issued by Lieut. Pinckard to the troops. If the flour so taken by us at that time has not been paid for by your department I would consider a claim at fair rates per barrel as eminently just and proper, for the said flour was used for the Army.

The loyalty of claimants at the date of the taking of the flour and ever since is clearly established beyond controversy.

Claimants filed their claim in the office of the Commissary-General, and that officer rejected the claim for the reason that he was not satisfied as to the loyalty of the claimants.

The officer who took the flour vouchers for the loyalty of the claimants. The collector of internal revenue at Paducah, Ky., under date of April 28, 1873, in a letter to the Commissary-General, says that the claimants were loyal during the war.

The flour was worth at the time it was taken $7.50 per barrel, amounting to $1,500.

Your committee, in view of the foregoing statement of facts, report back the bill and recommend its passage.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 50.

CHARLES P. CHOUTEAU.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1000.]

The Committee on War Claims, having considered the bill (H. R. 1000) for the relief of Charles P. Chouteau, survivor of Chouteau, Harrison & Vallé, respectfully submit the following report:

The facts are mostly embodied in House Report No. 3513 of the Fifty-first Congress, second session, which your committee adopt, and which is hereto appended.

The Senate at the same session favorably considered the bill and appropriated the necessary amount, but owing to the lateness of the session the act of the Senate failed of becoming a law.

It may be added, that while the case was pending in the Court of Claims under the reference from the committee of the Forty-eighth Congress, referred to in the preamble of the bill, evidence was taken under the rules of the court showing conclusively that the receipt referred to, and which was attached to an account purporting to be the full and final payment, was executed by the bankers, Gilman, Son & Co., of New York, who had acted all along as the fiscal agents of the contractor (McCord) for the simple purpose of receiving payments from time to time and to remit to McCord's bankers at St. Louis, under the supposition that said receipt, like all others which had been signed by them, was simply an acknowledgment of the receipt of the money expressed therein; that they had no knowledge of the state of accounts as between their principal and the Government; that they had never been informed thereof nor had they ever seen the contract under which the payments were made; that they had no intention nor did they believe that they had the power to bind their principal to any settlement whatever.

The evidence so taken further shows that the Navy Department on the 10th of February, 1863, advertised for proposals for building light-draft vessels for rivers and bays in accordance with certain plans and specifications, which had been prepared in the Engineer Department, and of which class of vessels the Government proposed to build twenty. Only three or four proposals were received in reply to the advertisement, but upon the basis of these proposals the Department fixed the price of each vessel to be built under said plans and specifications at $386,000. This proposition was open to any parties capable of performing the contracts. In view of the immediate demand for the vessels there was a provision in the contracts, to be given out that the vessels

were to be completed within eight months from the dates of the contracts, with a penalty of $4,500 per month in case of delay beyond that period, and a bonus of $4,500 per month for the earlier completion.

Among those who accepted the terms of the proposition were George C. Bestor—who built the *Shiloh* and for which Congress appropriated $125,000 for the damages he had received—and Charles W. McCord, who built the *Etlah*. Both of these contracts were made in June, 1863; that is, the eight months commenced running on the 24th of June, 1863, although McCord's contract bears date July 9, 1863. These two vessels were built in the same yard and upon the same plans and specifications with like changes and alterations in every respect and like payments were made. They were, in fact, twin vessels, and although built by different parties, yet the gangs of workmen were employed interchangeably upon one and the other. These contracts were made upon the basis of the specifications and drawings prepared in the preceding winter.

In the meantime Mr. Stimers, the chief engineer, had been sent to Charleston to examine the workings of the Ericson monitor, upon which the plans and specifications were based. Stimers returned to Washington in May, 1863, and reported to the Secretary of the Navy in view of the results of his observations, the propriety of making certain changes in the plans and specifications which had been furnished to the contractor. To quote from his testimony:

> The matter was discussed as to whether we had better build our vessels in strict accordance with the letter of the contracts which we were giving out, without any change whatever, or had we better take advantage of every such fight and make improvements as we went along, although we fully appreciated that it would delay their completion and add to their cost. Assistant Secretary Fox made the remark that he thought following this course would probably entail an entire cost of a million dollars for each battle where the monitors were engaged. Well, it was decided that that course should be followed.
>
> The contracts for the light-draft monitors, of which the *Etlah* was one, had already been drawn, specifications, general drawings, etc., of the original plans, but we went immediately to work to make changes on them in accordance with what I have already explained as the policy to be pursued. You will understand, therefore, why it was that I should send constant instructions to Mr. McCord directing him to make his vessel different from what he had contracted to do; why, I sent him drawings that differed from those specified in the contracts. You will find, too, that these might be very material, as they certainly were. The acts, therefore, which I performed, which affected Mr. McCord and affect this case, were to direct him to make a different vessel from the one he had contracted to do.

If Mr. McCord had no knowledge when he entered into this contract of this determination on the part of the Department, as is probable from the evidence, these frequent changes and alterations—some of which were made prior to the date of the contract—would, as between individuals, by reason of the delay occassioned by such changes and alterations, and the increased cost of materials and labor, shown to be enormous, constitute a legal fraud, the remedy for which would be in a court of equity to reform the contract in accordance with the equities of the case.

This equity has, however, been recognized by Congress in the act of March 2, 1867, directing the Secretary of the Navy to investigate the claims of all contractors for building vessels of war upon the following basis:

> To ascertain the additional cost which was necessarily incurred by each contractor in the completion of his work by reason of any changes or alterations in the plans and specifications required and delays in the prosecution of the work occasioned by the Government, which were not provided for in the original contract; but no allowance for any advance in the price of labor or material shall be considered, unless

such advance occurred during the prolonged time for completing the work rendered necessary by the delay resulting from the action of the Government aforesaid, and then only when such advance could not have been avoided by the exercise of ordinary prudence and diligence on the part of the contractor.

And upon this equity the greater number of the contractors who suffered in like manner have been reimbursed by special acts of Congress. (George C. Bestor, 17 Stat., 733; Miles Greenwood, 17 Stat., 764; S. S. Marchen, jr., 18 Stat., 635; Donohoe, Ryan & Co., 15 Stat., 353; C. W. Whitney, 17 Stat., 71; Ericsson, 13 Stat., 409.)

Inasmuch as the facts have been found by the Court of Claims and are in accordance with the equities of the case under the principles of those laid down, your committee agree with the President, that the act which was returned without his approval, providing for a retrial in the court of the cause, would be superfluous, and would only produce a repetition of its former findings, and therefore report back the bill and recommend its passage.

[House Report No. 3513, Fifty-first Congress, second session.]

The Committee on War Claims, having had under consideration the bill (H. R. 12275) for the relief of Charles P. Chouteau, survivor of Chouteau, Harrison & Valle, of St. Louis, Mo., beg leave to report:

This claim has been almost continually before Congress from the Forty-sixth Congress to the present time; was reported favorably by the committee in the Forty-sixth and Forty-seventh Congresses to the House of Representatives, and in the Senate in the Forty-sixth, Forty-seventh, and Forty-eighth Congresses; passed the Senate in the Forty-seventh Congress, but failed in the House of Representatives by reason of its not being reached on the Calendar; and at the first session of the present Congress a bill (S. 1857) passed both Houses referring said claim to the Court of Claims for adjudication upon the basis of the provisions of the act of March 2, 1867; which bill was returned by the President without his approval and with his objection wherein he states—

"Every fact connected with the case necessary to the determination of the question whether the claim should be appropriated for has already been found and stated by the Court of Claims [and that], the result (of a retrial by the court) would only differ from the result already obtained in that under the bill which I return, the court would enter a judgment instead of a finding, and the judgment could only be paid after Congressional action."

This view is strengthened, and is in accord with the intimation of the court, when called upon by a committee of the Forty-eighth Congress to again find the facts relative to the claim, under the provision of the "Bowman Act," which opinion of the court is recited in the preamble to the bill.

The findings of fact, as found by the court in the previous case, are also contained in the preamble of the bill, and fixes the sums due claimant, both for the increase of cost to the contractor in the construction of the *Etlah*, by reason of the delays occasioned by the acts of the Government, and also for the extra work and materials furnished under the orders of the Government.

Your committee adopts the report made to the Senate at the first session of the present Congress (S. Rep. No. 1581); which report includes the House report of the Forty-eighth Congress, and is as follows:

[Senate Report No. 1581, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 1857) for the relief of Charles P. Chouteau, survivor of Chouteau, Harrison & Valle, having considered the same, submit the following report:

Several reports have been submitted in previous Congresses, commencing with the Forty-sixth Congress, all of which are in substance contained in H. R. Report No. 1434 of the Forty-sixth Congress, as follows:

[House Report No. 1434, Forty-sixth Congress, second session.]

The Committee on Claims, having had under consideration the bill (H. R. 4132) for the relief of Charles P. Chouteau, of St. Louis. Mo., beg leave to report:

On the 30th day of October, A. D. 1869, a petition was filed in the Court of Claims

against the United States in the name of Charles W. McCord for the use of William A. Steel and others. It appears from said petition that on the 9th of July, 1863, Charles W. McCord, of the firm of McCord, Sanger & Steel (afterwards McCord & Steel), entered into a contract with the United States, through the Navy Department, to build an ironclad steam battery, to be completed within eight months from the 24th of June, 1863 (the date of a similar contract made by the United States with George C. Bestor), for the sum of $386,000, to be paid in eight installments. This contract contained the following clauses, which are all that are considered material by the committee in explanation of the intention of the contracting parties:

"SEC. 5. This battery to be completed and ready for service in eight months from the twenty-fourth (24) day of June, 1863, unless arrested by any contingency which human foresight could not avert, and the work on her shall progress in proportion to the time stipulated for her completion.

* * * * * * *

"SEC. 8. For this battery, so completed and delivered at Cairo, Illinois, within the eight months stipulated, the party of the second part will pay to the party of the first part the sum of three hundred and eighty-six thousand dollars in eight payments, in the following manner.

"SEC. 9. When there shall have been furnished by the party of the first part materials and work done to the amount of forty-eight thousand two hundred and fifty dollars, and certified to by the superintendent on the part of the United States, the party of the second part agrees to pay the same to the said party of the first part, on bills properly approved therefor, deducting and reserving twenty-five (25) per centum from each and every payment until a satisfactory test and acceptance of said vessel.

"SEC. 10. The party of the second part further agrees that, in addition to the price to be paid for the vessel, there will be paid to the party of the first part the additional sum of four thousand five hundred dollars per month for each and every month that the vessel may be delivered completed previous to the time stipulated; and the parties of the first part do hereby agree that for every month's delay beyond the time named for the delivery of the vessel there shall be a deduction of four thousand five hundred dollars ($4,500) per month from the sum of three hundred and eighty-six thousand dollars, before named as to be paid.

* * * * * * *

"SEC. 16. It is further agreed that the parties of the second part shall have the privilege of making alterations and additions to the plans and specifications at any time during the progress of the work as they may deem necessary and proper; and if said alterations and additions shall cause extra expense to the parties of the first part, they will pay for the same at fair and reasonable rates; and should such changes cause less work and expense to the parties of the first part, a corresponding reduction to be made from the contract price, and in each case the cost of the alterations to be determined when the changes are directed to be made.

* * * * * * *

"SEC. 19. The payments shall be made to the said parties of the first part, or to their order, by the navy agent at New York, in the manner and to the extent provided, on bills in triplicate, duly certified and approved by the proper persons, within ten days after the warrants for the same shall have been passed by the Secretary of the Treasury."

It is further alleged in said petition that after said contract was executed, McCord made a subcontract for the construction of the battery, with the firm of McCord & Co. (a firm in the iron foundry and machine-building business, and of which he, McCord, was a member) and Wm. A. Steel, by which subcontract McCord & Co. secured a two-third interest and Steel a one-third interest in the original contract; that work was duly commenced and diligently prosecuted, and the vessel would have been completed according to the contract but for changes in plan, delays, and suspension of work made, caused, or directed by the Government, by reason whereof the "petitioner was put to the extra expense of four hundred and twenty-seven thousand three hundred and forty-five dollars and ninety-eight cents ($427,345.98)."

The petition further alleges that McCord was paid "the original contract price for the building and equipping said vessel, to wit, $386,000, and the further sum of two hundred and three thousand four hundred and fifty-eight dollars and eighty-two cents ($203,458.82) on account of such alterations."

That the Navy Department has declined to pay the balance of the extra cost, amounting to the sum of $223,887.86.

The petition further alleges the bankruptcy of McCord & Co., and the sale of their interest in the claim of Chouteau, Harrison & Valle, who are thus become the equitable owners of a two-thirds interest in the claim, leaving the remaining one-third in Steel, and prays judgment in the usual form.

In February, A. D. 1873, an amended petition was filed by Paul A. Fusz, as administrator of the estate of Charles W. McCord. In the amended petition (p. 4) it is alleged that the vessel was ready for delivery at St. Louis in November, 1865; that

owing to increased draught of vessel and low stage of water in the river she could not be delivered at Cairo until the last of March, 1866. It is also alleged that McCord "filed a statement of his claim" before the board of investigation appointed by the Secretary of the Navy, under the act of March 2, 1867, but that no allowance was reported in his favor. This amended petition was also accompanied by Exhibits (A and B, pages 6, 7–12, amended petition) showing the proceedings in bankruptcy by which Chouteau, Harrison & Valle acquired the interest of McCord in the claim against the Government. On the 24th day of November, 1873, a further amended petition was filed by Charles P. Chouteau, as surviving partner of Chouteau, Harrison & Valle, and William A. Steel, in which the death of Charles W. McCord, James Harrison, and Jules Valle is alleged. In this last amended petition, the history of the construction of the battery and the increased cost and losses to the contractor by reason of delays, changes, and alterations are set forth with great particularity. (See pages 4, 5, 6, and 7.)

On the hearing of the case in the Court of Claims, that court found the following matters of fact:

In the Court of Claims.

That the vessel specified in said contract was built and completed at St. Louis, Mo., in November, 1865, by the said Charles W. McCord, and has been accepted, and the contract price therefor paid by the United States. The completion of the vessel within the time specified in said contract was prevented by changes and alterations from her original plan and its specifications, made by the United States, and was thus delayed till November, 1865. These changes and alterations extended from July, 1863, to near the time of the completion of the vessel; and from the 15th of June, 1864, to September 19, 1864, the work upon the vessel was substantially suspended for the purpose of increasing her depth, and making other changes incident to that. These changes and alterations increased the size, weight, and draught of the vessel, and the amount of materials and labor required for her construction; and during the various delays above stated the prices of labor and materials increased, and skilled labor became difficult to be procured at St. Louis, because men were drafted into military service or left the locality to avoid being drafted.

From these circumstances the work required and done under the original contract was enhanced in cost to the contractor $122, 166 beyond the contract price, less deductions for labor and materials saved by changes and alterations, $3, 882. 80, leaving a balance for increased cost of work required by the contract of $118, 283. 20. And from the same circumstances the cost to the contractors of the *extra* materials and labor on the vessels required by the changes and alterations made, exclusive of special contracts paid, were $172, 273. 55, of which $116, 111 were paid, leaving a balance for extra materials and labor of $56, 162. 55.

After a careful consideration of the evidence, your committee see no reason to dissent from the findings of the Court of Claims in these particulars. It will be observd that the court ascertains—

First. The enhanced cost beyond the contract price to the contractor of the work done under the original contract.

Second. The cost to the contractor of the extra materials and labor on the vessel, required by the changes and alterations.

This mode or basis of estimating the total cost of the vessel to the contractor seems to be fully warranted by the opinion of the Chief Engineer of the Navy Department, Mr. Stimers. That official, in his testimony before the Court of Claims (Depositions before Court of Claims, pages 81, 82), says:

"Before expressing an opinion on the matter as an expert, I must explain that the principles upon which the contractors of this and the contractors of similar vessels were to be paid, were settled upon before I left the office, and I have always understood that these principles were adhered to, and they were as follows: That we should pay for the contract work by making the contract payments, or the payments provided for in the contract; that we should pay for alterations and changes a proper sum, as might be agreed upon between the Government and the contractors, at current rates; now, that being the case, I consider that the Government is still indebted to the contractors of the *Etlah*, because, although the original contract work has been paid for as originally agreed upon, and the extra work may have been paid *per se*, the fact of calling upon the contractor to make the changes on his vessel and his compliance with those demands delayed him in the execution of the original contract work; this delay compelled him to pay the increased rates for labor, and material which obtained at the time when the work was actually performed, and although the contractor took the risk of a rise in prices when he signed his contract, it was only for a risk during the period of his contract, or the period he would have required to perform the work, if the Government had not delayed him by their direct interference; now, whatever increase there was in the cost of the original work contemplated by the contract due to the delay caused by the Government, that increase is now due,

as there has been no pretension on the part of the officers of the Government to have paid it; if you will determine the increased cost of material and labor of the original contract work during the extent of time when the contract was delayed by an interference of the Government to execute it, you will have, in my judgment, the indebtedness of the Government. There may be very large claims on account of extra work of which I know nothing."

It should be borne in mind that at the time this contract was entered into ironclads were yet an experiment. It was desired to reserve to the Government the most unlimited power to change its plans. Each naval battle brought new light and valuable experience to the officers in charge of the construction of this class of war vessels.

Chief Engineer Stimers was sent to Charleston in April, 1863, to watch the bombardment of that city. Upon his return he reported the result of his observations to the Secretary of the Navy. He says:

"It was decided that we should make the improvements *as we went along*, although we fully appreciated that it would delay their completion and add to their cost. Assistant Secretary Fox made the remark that he thought following this course would probably entail an extra cost of a million dollars for each battle we had where the *monitors* were engaged. Well, it was decided that that course should be followed." (Depositions in Court of Claims, p. 49.)

The result of this policy was:

1. To change materially the character of the vessel.

Mr. Stimers says:

"The acts, therefore, which I performed, which affected Mr. McCord and affects this case, were to direct him to make a different vessel from the one he contracted to do." (Depositions in Court of Claims, p. 50.)

2. To extend the time of the completion of the vessel until October, 1865. (Depositions in Court of Claims, p. 45.)

From June to September, A. D. 1864, work was entirely suspended, by order of the Government, to await the perfection of plans and specifications for a general increase of the size of the vessel. (Depositions in Court of Claims, pp. 12, 15, and 109.)

From the evidence it clearly appears that the contractor could have completed the vessel in accordance with the contract had he not been delayed by the action of the Government. (Depositions in Court of Claims, pp. 18, 19.)

The preparations of the contractor to carry out his contract seem to have been ample.

But the petitioners encountered an unexpected difficulty in the Court of Claims. On the hearing the Government produced a receipt from McCord, signed by his attorneys in fact, Messrs. Gilman, Sons & Co., bankers, of New York, purporting to be in full of all extras for this vessel. It is alleged by the petitioners that this receipt was unknown to them before the day of the trial, and that they had no opportunity to rebut or explain it, and Messrs. Gilman, in their evidence, state that if such a receipt was signed by them, it was done without knowing the purport thereof; that they were only authorized as bankers to receive whatever moneys might be paid on account of such vessel, the contract requiring the payments to be made in New York; that they had no knowledge whatever of the state of accounts between the Government and their principals; that they had no authority to bind their principals further than the receipt of such moneys as were paid to them, and had no intention of binding the principals to any settlement.

The receipt was executed prior to the filing of the petition in bankruptcy.

The Court of Claims held this receipt to be a bar to all claims for *extras* in the construction of the battery.

The decision of the Court of Claims was affirmed on appeal by the Supreme Court.

Both courts proceed seemingly upon the theory that McCord participated in or assented to the preparation of the voucher, and that his rights were therefore necessarily concluded by the receipt executed by his attorneys in fact.

Your committee is unable to concur in this interpretation of the transaction. We are satisfied from our investigations that the preparation of the voucher was purely the act of the Government. In a communication, under date of April 10, 1880, addressed to the Secretary of the Navy, Mr. Easby, Chief of the Bureau of Construction, says:

"This bill came to the Bureau in regular course, duly approved by the general inspector and by Rear-Admiral Gregory, who had the general superintendence and control of all classes of gunboats, and whose duty it was to make out, approve, and forward all bills connected with their construction to this Bureau for its approval and final payment by the respective paymasters. The original and duplicate of this bill are in the Treasury Department and are duly receipted, etc. * * * All such bills were made out in the office of Rear-Admiral Gregory, and forwarded to the Department for approval, and there is no substantial difference between this bill in

question and hundreds of others received from that office during the construction of the large number of vessels which were built under his general superintendence."

The foregoing letter was furnished to your committee in response to an inquiry concerning the practice of the Department in regard to the preparation of vouchers, and calling for any suggestions throwing light upon the preparation of the voucher in question. It is thus seen that it is possible that McCord never saw this voucher prior to its payment. In fact, from the circumstances of the case and the situation of the parties, your committee is of the opinion that it is altogether probable that such was the fact. The voucher was doubtless prepared by the Navy Department in the ordinary course, and receipted by Gillman, Sons & Co. as and for so much money, and without any thought upon their part of adjusting the claims of McCord for extra work or materials.

Your committee are therefore of the opinion that there are the strongest grounds to believe that the effect given to the voucher and receipt has been an unjust and inequitable one, and that the petitioners, notwithstanding said voucher and receipt, are fairly entitled to a settlement with the Government upon the principles adopted in the act of March 2, 1867, and under which many contractors for the construction of this class of vessels have been paid.

It is hardly consistent with the action of the Government in other cases to stand in this matter upon a mere technical advantage. See act for the relief of Geo. C. Bestor, (17 Stats., 733), which was for the construction of the *Shiloh*, a counterpart of the *Etlah;* also act for the relief of M. Greenwood (17 Stat., 764); also act for relief of D. S. Mersden. jr. (18 Stat., 635); also act for relief of Donohue, Ryan & Co. (15 Stat., 353); also for relief of Chas. W. Whitney (17 Stat., 671).

Your committee are therefore of the opinion that the petitioners should be heard and their rights adjusted upon the merits of the claim, and that they should not be concluded by the voucher in question unless it appear that in equity and good conscience they ought to be. Your committee therefore report back said bill with the accompanying amendment and recommend its passage.

Subsequent to that report the committee of the House of the Forty-eighth Congress referred the bill pending before it to the Court of Claims under the Bowman act, under which reference additional proof was taken bearing upon the receipt referred to and the history attending the construction of ironclad vessels.

The court dismissed this last petition upon the ground of want of jurisdiction, but in its opinion made the following suggestion:

"The court also desires to call the attention of parties to the facts found and determined on the former trial. They are set forth both in 9 C. Cls. R., 155, and in 95 U. S. R., 61. It will be perceived by referring to them that every fact which could be found for the claimant under this reference has been already found and is set forth in these findings. They fix the amount of the claimant's losses in each branch of his case; they show the character and nature of the Government defenses, and they inform Congress of every fact necessary to be known, if it be the purpose of Congress to afford the claimant the relief he seeks." (20 Ct. Cls., 250.)

The evidence so taken shows that the Navy Department, on the 10th of February, 1863, advertised for proposals for building light-draft vessels for rivers and bays in accordance witn certain plans and specifications which had been prepared in the Engineer Department, and of which class of vessels the Government proposed to build twenty. Only three or four proposals were received in reply to the advertisement, but upon the basis of these proposals the Department fixed the price of each vessel to be built under said plans and specifications at $386,000. This proposition was open to any parties capable of performing the contracts. In view of the immediate demand for the vessels there was a provision in the contracts to be given out that the vessels were to be completed within eight months from the dates of the contracts, with a penalty of $4,500 per month in case of delay beyond that period, and a bonus of $4,500 per month for the earlier completion.

Among those who accepted the terms of the proposition were George C. Bestor, who built the *Shiloh* and for which Congress appropriated $125,000 for the damages he had received, and Charles W. McCord, who built the *Etlah*. Both of these contracts were made in June, 1863; that is, the eight months commenced running on the 24th of June, 1863, although McCord's contract bears date July 9, 1863. These two vessels were built in the same yard and upon the same plans and specifications, with like changes and alterations in every respect, and like payments were made. They were, in fact, twin vessels, and although built by different parties, yet the gangs of workmen were employed interchangeably upon one and the other. These contracts were made upon the basis of the specifications and drawings prepared in the preceding winter.

In the mean time Mr. Stimers, the chief engineer, had been sent to Charleston to examine the workings of the Ericsson monitor, upon which the plans and specifications were based. Stimers returned to Washington in May, 1863, and reported to the Secretary of the Navy, in view of the results of his observations, the propriety of

making certain changes in the plans and specifications which had been furnished to the contractor. To quote from this testimony:

"The matter was discussed as to whether we had better build our vessels in strict accordance with the letter of the contracts which we were giving out without any change whatever, or had we better take advantage of every such fight and make improvements as we went along, although we fully appreciated that it would delay their completion and add to their cost. Assistant Secretary Fox made the remark that he thought following this course would probably entail an entire cost of a million dollars for each battle where the monitors were engaged. Well, it was decided that that course should be followed.

"The contracts for the light-draft monitors, of which the *Etlah* was one, had already been drawn, specifications, general drawings, etc., of the original plans, but we went immediately to work to make changes on them in accordance with what I have already explained as the policy to be pursued. You will understand, therefore, why it was that I should send constant instructions to Mr. McCord directing him to make his vessel different from what he had contracted to do; why I sent him drawings that differed from those specified in the contracts. You will find, too, that these might be very material, as they certainly were. The acts, therefore, which I performed, which affected Mr. McCord and affect this case, were to direct him to make a different vessel from the one he had contracted to do."

If Mr. McCord had no knowledge when he entered into this contract of this determination on the part of the Department, as is probable from the evidence, these frequent changes and alterations—some of which were made prior to the date of the contract—would, as between individuals, by reason of the delay occasioned by such changes and alterations, and the increased cost of materials and labor, shown to be enormous, constitute a legal fraud, the remedy for which would be in a court of equity to reform the contract in accordance with the equities of the case.

This equity has, however, been recognized by Congress in the act of March 2, 1867, directing the Secretary of the Navy to investigate the claims of all contractors for building vessels of war upon the following basis:

"To ascertain the additional cost which was necessarily incurred by each contractor in the completion of his work by reason of any changes or alterations in the plans and specifications required and delays in the prosecution of the work occasioned by the Government, which were not provided for in the original contract; but no allowance for any advance in the price of labor or material shall be considered, unless such advance occurred during the prolonged time for completing the work rendered necessary by the delay resulting from the action of the Government aforesaid, and then only when such advance could not have been avoided by the exercise of ordinary prudence and diligence on the part of the contractor."

This claim is one of the class of cases arising under the same state of circumstances, and has received much attention from this committee, and is similar in most respects to that of Nathaniel McKay, recently reported (S. Rep., 444).

After the passage of the act of 1867, before mentioned, and in conformity therewith, the Secretary of the Navy sent out to the several contractors—McCord among the number—a circular letter of interrogatories for information under that act. McCord replied, furnishing to the Secretary an account showing the amount of extra work done on the *Etlah* outside of the contract, and also an estimate of the increased expense by reason of the rise in prices of labor and material upon that portion of the work required under the original contract, and which had not been performed at the date specified in the contract for the completion of the vessel.

The Secretary of the Navy then organized a board of officers, known as the "Marchand Board," which had before it, of course, the account presented by McCord to the Secretary. But it seems that the Marchand Board, either for the reason that it considered itself as having no jurisdiction over any question of account except as the successor of what was known as the "Selfridge Board," or for some other unknown reason, declined to hear any evidence that might be presented on behalf of those claimants whose claims were not before the Selfridge Board. In fact, such privilege was not given to those claimants who had been before the Selfridge Board.

This matter was fully investigated by the Committee on War Claims of the Forty-third Congress, which committee, in its report to the House of Representatives (H. R. Report 269, Forty-third Congress), says that the Marchand Board "reviewed the report and evidence before the Selfridge Board, without, however, permitting the contractors to be heard in their own behalf, or to rebut the adverse testimony or report of any Government official."

Inasmuch as the *Etlah* was not completed during the term of the Selfridge Board—which was in the summer of 1865—and as McCord was not even permitted to produce evidence before the committee, it will readily be seen that he could not be precluded by any action of the board, if any was made. Nor was any action of the

board considered to be anything more than as advisory to the Secretary of the Navy, upon which to base his recommendations to Congress.

Your committee therefore report back the bill (H. R. 12275), with the following amendments: Insert in title of the bill after the word "Chouteau" "survivor of Chouteau;" in line 20 of the second page of the bill omit the word "subsequently" and insert "substantially;" in the last line of the third page insert after the word "fifty" in brackets "said;" and which bill when so amended your committee recommends that it be passed.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 51.

MARY H. S. ROBERTSON.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2301.]

The Committee on War Claims, to whom was referred the bill (H. R. 2301) for the relief of Mary H. S. Robertson, report as follows:

This is a claim for rent of a dwelling situated in Paducah, Ky., from September 10, 1861, to October 8, 1865, by the United States forces under the command of and used by Brig. Gen. Lew Wallace as his headquarters from September 10, 1861, till about the time of the Fort Donelson fight in February, 1862. As soon as he vacated it, it was taken by the military authorities in command of the post at Paducah, and occupied and used by them as a convalescent hospital continuously up to the 8th day of October, 1865.

The case was originally filed with the Quartermaster-General, U. S. Army, and transferred to the Third Auditor of the Treasury, by which officer, after a thorough examination of all the proofs, it was recommended for payment and sent to the Second Comptroller for approval, but which officer, although admitting "the evidence is voluminous as to the ownership and loyalty of the claimant, the fact of the occupation, the value of the property, and the duration of the occupancy," yet disapproved the finding of the Auditor on the ground that it did not appear there was any stipulated agreement to pay rent for the occupation of the premises.

Your committee after an investigation find with the Third Auditor there *is* sufficient evidence upon which to imply a contract to pay rent in this case.

The claim is proved beyond a shadow of a doubt, and as it is a just demand your committee recommend the payment of the claim and the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 52.

GOFF A. HALL.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3159.]

The Committee on War Claims, to whom was referred the bill (H. R. 3159) for the relief of Goff A. Hall, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 1412, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 5642) for the relief of Goff A. Hall, report as follows:

In 1863 the claimant was appointed by the Secretary of the Navy prize auctioneer for the Department of the Gulf, and as said auctioneer disposed of a large number of prizes of the Navy, amounting to about $5,000,000.

Subsequently he sold large amounts of confiscated property in New Orleans, amounting in value to $567,920.16, and the bill under consideration is to pay him on account of such sales commissions upon the gross proceeds of the sales of confiscated property condemned in the United States courts for the district of Louisiana and sold by the claimant for the marshal.

The claim rests upon an order made in May, 1869, more than three years after the service, by which the United States district court allowed the claimant 2½ per cent on the sales in each of the cases, "to be taxed as costs," and "to be paid out of any funds in the registry in the respective cases."

It appears from the proof submitted that he was paid commissions out of the funds that were in the registry at the time when the order was made, and that the costs in nearly all of the cases had long before been taxed and paid; but that the sum of $2,600 only was paid to the claimant out of the funds in the registry of the court, the remainder having been paid into the Treasury of the United States. The committee report that there is due said Hall the sum of $11,598, and recommend the passage of the bill so amended.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 53.

WARREN HALL.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2196.]

The Committee on War Claims, to whom was referred the bill (H. R. 2196) for the relief of Warren Hall, submit the following report:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 105, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2888) for the relief of Warren Hall, report as follows:

The facts out of which this claim arises will be found stated in Senate report of the Committee on Claims of the Fiftieth Congress, a copy of which is hereto attached and made a part of this report.

Your committee adopt the said report as their own and report back the bill and recommend its passage.

[Senate Report No. 2462, Fiftieth Congress, second session.]

The Committee on Claims, to whom was referred the bill (S. 902) for the relief of Warren Hall, have considered the same and respectfully report:

Warren Hall, the claimant, alleges that he is the son of a free woman, an Indian, and that he was born in the city of Alexandria; that when a youth he was kidnapped in New Orleans, where he had gone as a race-rider, and sold to a planter in Mississippi by the name of Roach, by whom he was treated until 1863 in some respects as a freeman and in others as a slave. Hall further claims that during this period he was allowed to raise hogs and other stock, which he exchanged with Roach for cotton, and in this way he had accumulated some 75 or more bales of cotton. In the year 1863 sundry lots of cotton along the Mississippi were seized by United States troops, to be used in the fortifications at Memphis. This cotton was sold at a later date and the proceeds placed in the United States Treasury. In this cotton thus taken, used, and sold were the bales Hall claims, which he had received in exchange for his hogs, by contract with Roach, and of which he was the lawful owner.

Hall endeavored to assert his right of ownership by application to the Quartermaster-General and by suit in the Court of Claims and in the Supreme Court of the United States, but without success, the courts holding that his condition in fact was that of a slave, and that in consequence he was incapable of making contracts or of acquiring property.

It would seem to your committee that under these facts injustice is done to Hall

by enforcing the harsh rule of slavery in his case. If the story of his birth be true he was by law freeborn and his mother was a free woman, and her legal status would determine his. His servitude, therefore, was the result of force and not of law. He was still a freeman, although unable to assert his freedom.

The bill under consideration is intended to refer the entire case to the Court of Claims, removing simply the bar of limitation and the hitherto insuperable bar of so-called "slavery *de facto*." Hall, then, would be allowed to prove his free birth, the contract with Roach, and his title to the property, if possible.

Some questions have been raised, in the course of the investigation, as to the good faith and genuineness of Hall's claim. All these questions will be passed upon by the court if the proposed statute be enacted, and the burden will be upon him to establish his title in all respects.

Your committee recommends, therefore, the passage of the bill, with the following amendment: In line 8, after the word "trial," insert: "if it shall appear that said Hall was in fact freeborn he shall be deemed to be entitled to all such rights as he would have had if he had continued a freeman, notwithstanding he may have been reduced to a state of slavery de facto by the operation of the laws of any State."

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 54.

MRS. ELIZA E. HEBERT.

FEBRUARY 4, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3809.]

The Committee on War Claims, to whom was referred the bill (H. R. 3809) for the relief of Mrs. Eliza E. Hebert, submit the following report:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage with the following amendment: In lines 6 and 7 strike out "forty-seven thousand nine hundred and seventy-five" and insert in lieu thereof "twenty-three thousand one hundred and fifty."

House Report No. 750, Fifty-first Congress, first session.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3639.]

The Committee on War Claims, to whom was referred the bill (H. R. 3639) for the relief of Mrs. Eliza E. Hebert, widow of Jules J. Hebert, deceased, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Forty-ninth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and recommend that the bill do pass.

[House Report No. 1683, Forty-ninth Congress, first session.]

The Committee on War Claims, to whom was referred the claim of Mrs. Eliza E. Hebert for stores and supplies taken for the use of the Army, &c., have carefully examined the memorial and proofs in the case, and make the following report:

This claim arises from the alleged taking of property by the Federal troops under command of Gen. Halbert E. Paine, in 1863, and has been before the Southern Claims Commission and Congress since the 24th of January, 1873, and is one which has created considerable notoriety in and out of Congress, and has been passed upon favorably by reports made in the Forty-third, Forty-fourth, Forty-fifth, and Forty-sixth Congresses.

In the Forty-third Congress, second session, in the Senate (see report 527), an adverse report was made, upon the ground that the order under which the property was taken, issued by General Paine, expressly required that the officers authorized to take property should give receipts for the same. In this case there are no receipts, and it is stated that none were given by the officers who took the property, and that inquiries addressed to the Quartermaster and Commissary Generals elicited replies that neither of the officers have charged themselves with supplies taken from Mrs. Hebert's plantation. And it is further stated that the testimony of these officers had not been secured, and that in the absence of their testimony that which was submitted was not of the most satisfactory character, being principally statements of servants, some of whom were on the plantation, whose estimates of quantity and value of the articles were not received with implicit confidence. That there was some other testimony, but not of that satisfactory character which would justify the committee in recommending the payment of so large a claim. That the articles were of the class for which claims should have been presented to the Commissioners of Claims appointed under the act of March 3, 1871.

Further, that petitioner stated that she was not aware until last year that such claims were paid, and therefore did not prepare her testimony and submit her case;

and therefore the committee suggested that the agents furnished the Southern Claims Commission should make inquiry into the facts and circumstances alleged in the case, and the value of the stores taken. The suggestion made in this report was adopted by the Government, which resulted in an investigation by special detectives in 1875 and 1876, also in 1878, reference to which will be hereafter made.

A report was made in the Forty-fourth Congress (report 309) 24th of March, 1876, by the Committee on War Claims, through Mr. Conger, recommending that Mrs. Eliza E. Hebert should be paid the sum of $21,090 in full for all her claims, and reported a bill for that amount, which passed the House at that session.

On the 14th of August, 1876, Mr. Wadleigh, from the Committee on Claims in the Senate, reported the bill which had passed the House, and made an elaborate report, recapitulating the evidence then before the committee, and concluded his report by stating that—

"Your committee have had much doubt in reference to this claim, nor are their doubts entirely removed; yet, after a careful and thorough examination of the evidence, they have somewhat reluctantly come to the conclusion that it is sufficient to justify the passage of the bill. They therefore recommend its passage with the following amendment: Insert after the words "sixty-four," in the ninth line of the bill, the following proviso: "*Provided, however*, That neither the said Eliza E. Hebert, nor any one claiming under her, shall receive any part of said sum until the late husband, Jules J. Hebert, shall have executed and delivered to the United States a valid release of all his claims on account of said stores and supplies so taken."

This bill failed to pass the Senate for want of time.

In the second session of the Forty-fifth Congress, February 15, 1878, Mr. Caldwell, of the Committee on War Claims in the House, made a report (see report No. 216), concluding in the following words:

"From the evidence your committee believe that the claimant, Mrs. Eliza E. Hebert, should be paid, as a full compensation for all her claims for the property and supplies taken and used as aforesaid, the sum of $23,150, and herewith report a bill for that purpose and recommend its passage."

At the same session of the said Forty-fifth Congress, March 27, 1878, Mr. Mitchell, from the Committee on Claims in the Senate, made a report (No. 203), in which he gives the substance of the evidence on file at that time, recommending the passage of a bill for the sum of $23,150.

The next and last is an adverse report made by Mr. Bragg, from the Committee on War Claims in the House, in the second session of the Forty-sixth Congress (see report No. 936, April 8, 1880). This report refers in detail to the previous reports that had been made upon this claim, and further summarizes the evidence to show the contradiction in order to make this more patent, which we will not recapitulate here, but quote from the report to show the conclusion and reasons assigned for reporting adversely to the bill, as follows, to wit:

"1st. That the claim is a fraudulent one.

"2d. That the claim is barred for want of prosecution in the Commission of Claims if it were not fraudulent.

"3d. That the assignment from Jules J. Hebert is invalid, and if a claim existed would not carry it to this claimant."

Your committee have gone over the whole evidence in this case, and have critically examined in detail every item of the account filed and the proof relative thereto. There are two accounts filed in the case, one before the Southern Claims Commission, on the 24th of January, 1873, and is as follows:

8,000 barrels corn, at $1.50	$12,000 00
500 cords of wood, at $6	3,000 00
100 chickens, at $1	100 00
200 turkeys, at $2	400 00
30 hogs, at $10	300 00
5 milch cows, at $100	500 00
8 oxen, at $50	400.00
5 horses, at $160	800.00
4 mules, at $125	500.00
Unknown quantity of lumber, consisting of hogsheads, staves, pickets, and posts, value estimated	5,000.00
Total	23,000.00

And the other taken from the report of Senator Mitchell, of Oregon, of the Committee on Claims in the Senate (see Senate report No. 203), which is as follows:

The claim in this case for property taken is follows:

8,000 barrels of corn, at $2.50	$20,000
1,500 cords of wood, at $4.66⅔	7,000
For one lot of lumber, consisting of staves, heading, and pickets	10,000

For 1 pair of carriage horses	$1,000
For 3 riding horses	900
For 4 mules, at $300	1,200
For 30 hogs, at $30	900
For 5 choice milch cows	375
For 20 head of beeves	500
For 1 lot of poultry	100
For fencing on plantation	6,000
Total	$47,975

In comparing the two accounts as to property, we find that there is no discrepancy between them as to the item of corn. As to the item of wood, the first account claims 500 cords and the second claims 1,500 cords. The first account claims for an "unknown quantity of lumber, consisting of staves, heading, and pickets," and does not include hogsheads and posts. In the first account the item for fencing is not included. In the first account claim is made for 100 chickens and 200 turkeys. In the second the claim is for one lot of poultry.

The proof shows that a quantity of hay and a number of sheep were also taken, but is not charged for in either account.

The number of mules, horses, hogs, and milch cows is the same in both accounts. The first account claims for 8 oxen; the second account claims for 20 head of beeves. So that the second account claims for 1,000 cords of wood more than is claimed in the first account, and claims 20 beeves instead of 8 oxen, and the item of fencing, not charged in the first account. It will therefore be seen that as to the charge for lumber the item for hogsheads and posts are charged for in the first account and are not charged for in the second account, but the item for heading is included in the second but is not in the first account. The discrepency in the two accounts shows that she did not claim for property in the second account which she did claim for in the first account.

Now let us see, from a synopsis of the testimony before the committee, how far it sustains the claim for the items contained in these accounts.

1st, is the testimony of Louis Thomas, who states that Mrs. Hebert, whom he knew, had a plantation in the parish of Iberville, in Louisiana, near Indian Village. Does not know how many acres it contained.

"About 180 acres were cultivated in corn. There was about 125 head of cattle on said plantation in 1863, and about $10,000 worth of lumber, including heading, staves, and pickets. I do not know what quantity of each. [Says that] General Paine's brigade was stationed at Indian Village, and Perkins's cavalry from Baton Rouge. Do not know the name of any other of the officers than General Paine and Major Alcott, of Paine's brigade, and Captain Perkins, of Perkins's cavalry. Articles were taken by these troops for the use of the Army, and I do not know whether any vouchers were taken or not. Perkins's cavalry took five horses from the plantation. I do not know how much timber was on the place. Eight thousand barrels of corn and 1,500 cords of wood were taken by the troops—not at one time, but at intervals as the troops required. *I was present and saw the articles taken as stated by me.* I was raised and lived on the plantation in 1863. Paine's brigade took all the other live stock on the plantation excepting the horses—about 125 head in all—and drove them toward the Indian Village. Major Alcott returned the cows to Mrs. Hebert, and on the next day another officer of the same brigade (whose name I do not know) took them away again, stating that he had orders to do so; that if she wanted to get pay for the cows she would have to apply to the United States Government.

"Whenever articles were taken by the troops they were always accompanied by officers."

2d. William Peterson says:

"I am acquainted with Mrs. Hebert, and know that in 1863 she owned a plantation in the parish of Iberville, La. I do not know how many acres it contained, but there were about 180 acres improved. I do not know how many head of live stock, or how much lumber there was on the plantation, but there was a large quantity taken. The principal articles raised on the plantation were corn, wood, and lumber, which were sold to boats running between New Orleans and the Attakapas country. There were two companies which visited the plantation, and took live stock and produce therefrom; one company known as Paine's brigade, stationed at Indian Village, one mile distant, and a company of cavalry from Baton Rouge, known as Perkins's cavalry, commanded by Captain Perkins, whom I knew, as also General Paine, of Paine's brigade. I knew no other officers. The articles were taken by the troops for the use of the Army, and no receipts to my knowledge were given to Mrs. Hebert for them. Perkins's cavalry took five horses from the plantation and drove them to Baton Rouge. About 180 acres of said plantation were cultivated in corn, but I do not know how much timber there was on the place. Eight thousand barrels of corn and 1,500 cords of wood were taken at different times from said plantation by the troops, as they re-

quired the same. I lived on Mr. Dardenne's plantation, which adjoined Mrs. Hebert's place. I saw the articles taken, as I have stated."

3d. Louis Martin says:

"I know Mrs. Eliza E. Hebert, and know that she owned in 1863 a large plantation, about one mile distant from Indian Village, in the parish of Iberville, Louisiana, in which parish the plantation was situated. About 180 acres were improved. There were about 125 head of stock, and about $10,000 worth of lumber on the place at the time, including the lumber, staves, headings, and pickets, in what proportion I can not state. There were articles taken from said plantation by two companies. One commanded by General Paine, whom I knew, known as Paine's brigade, stationed at Indian Village, and a cavalry company from Baton Rouge, known as Perkins's cavalry, commanded by Captain Perkins, whom I also knew.

"The articles were taken by and for the use of the United States troops. Perkins's cavalry took five horses from the plantation, and drove them to Baton Rouge. One hundred and eighty acres on said plantation were cultivated in corn. Do not know how much timber there was on the place. Eight thousand barrels of corn and 1,500 cords of wood were taken, not at one time, but at intervals as the troops needed it. I was raised on the plantation, and was on the place in 1863, and saw the corn and wood taken. General Paine took milch cows, sheep, mules, hogs, corn, and wood."

4th. Sarah Martin testifies that she knew Mrs. Hebert in 1863; that she (Mrs. Hebert) owned a plantation in the parish of Iberville, near Indian Village.

"Does not know how many acres in the place altogether, but knows that there were 180 acres improved. Knows that two companies visited the plantation. One was a brigade commanded by General Paine, the other was a company of cavalry commanded Captain Perkins. Articles were taken from the plantation by the troops for their use as Government troops. Five horses were taken from said plantation by Perkins's cavalry. Eight thousand barrels of corn and 1,500 cords of wood were taken from the plantation by the troops at intervals, as they required the same. I know the facts here stated by me, as I lived on the plantation as one of the house servants."

5th. Judge Edward Moore testifies that Mrs. Hebert had a plantation on Bayou Plaquemine, in the parish of Iberville, in 1863. Does not know how much stock there was on the plantation in 1863; but

"I do know that she owned very fine horses. I myself offered her $600 during the war for one of the carriage horses, which she refused. Her stock was all valuable."

6th. E. A. Teller testifies that—

"Mrs. Hebert had a plantation in 1863 in Louisiana, situated on the Bayou Plaquemine, about 7 miles from the town of Plaquemine and 1 mile from the Indian Village. There were five horses, five or six mules, five cows, a large drove of sheep (number not known), hogs, beeves, ranging from four to seven years of age. I can not state the exact number of head of stock on the place. There was a large quantity of lumber on the place at the time ready for shipment, about $10,000 worth, but can not say how much were staves, headings, or pickets General Paine's brigade was stationed at Indian Village. General Paine arrived at the plantation one Saturday, and two or three days afterward he detailed two officers, Major Alcott and Captain Craig, to take all property needed for the troops. There were five horses taken from the place, and they were taken by a company of cavalry from Baton Rouge, known as Perkins's cavalry. There was a large quantity of timber on the place, but how much I can not state. Two years' crop of corn and wood (quantity not known) was taken by United States troops. I know the facts stated by me, as I lived on the plantation during the time, and saw the depredations committed."

7th. Michael Fitzgerald states that he belonged to the Fourth Regiment of Wisconsin Volunteers, commanded by Col. Halbert E. Paine, afterward brigadier-general.

"That the brigade was stationed at the Indian Village of Iberville, and was camped on a low, marshy strip of land. Knows that a large quantity of wood, pickets, and staves were used as fuel; that a large quantity of lumber was used for building quarters for the brigade, and that it was the property of Mrs. Hebert; says that he hauled this lumber himself; that he is now (in 1877) living 14 miles from the place; knows that said brigade used a great quantity of corn for itself and the Fifth Massachusetts Battery while camping there, and that a great quantity of corn was taken away when they broke said camp."

8th. Charles A. Bronell testifies that in 1863 he was second lieutenant in the One hundred and seventy-third New York Volunteers, and was in the brigade commanded by Col. H. E. Paine, in the spring of 1863, while at Indian Village, in camp near the plantation of Mrs. J. J. Hebert, and that while the command was there in camp that wood and lumber was taken from the plantation in indefinite quantities and used in camp—the wood for fire purposes, and the lumber for flooring tents, etc., of the camp, which was overflowed with water.

9th. Celestine Louis testifies that he was overseer on the plantation of Mr. and Mrs. Hebert:

"They raised corn and made lumber and cord-wood for sale; they bought large quantities of corn from colored people. In 1862 Mr. Hebert rented land and raised corn on it. Had a large quantity of corn on hand. They had 8,000 barrels of corn in the corn cribs that was all taken by the Union force. I know how much the cribs held, and they were full when the troops came. We never used corn out of those cribs. They (the troops) came and got it as they wanted it, in their own wagons; they also took wood, as the back of their camp was not more than one-fourth of a mile from our woods, the only place they could get wood cut and dried. There was also a large quantity of lumber, staves, headings, and pickets taken, and all the fencing. They took stock, such as horses, mules, hogs, milch cows, and so forth. They took 1,500 cords of wood, 8,000 barrels of corn, 1 pair of carriage horses, 3 riding horses, 4 mules, 30 hogs, 5 choice milch cows, 30 head of beeves, because I know they were on the place, and I saw them taken by Captain Perkins, of the cavalry."

The balance of the property was taken by General Paine's brigade, and the witness evidently testifies to 30 barrels of corn to the acre—meaning produced.

10th. W. J. Woodruff testifies that—

"He knows that General Paine's brigade was stationed at Indian Village in 1863, not more than a mile from Mrs. Hebert's plantation, and knows that General Paine's command built their quarters from the lumber on her plantation; also knows that all the wood on the place was used by the troops, as it was the only wood in the neighborhood. They also got from her place the corn and hay to feed the horses and stock. Also knows that Major Alcott came out and drove off the stock that was at Mr. Dardenne's place. Knows that Captain Perkins came to the place and drove off the horses. Knows that wood was very valuable, also corn and hay, as there was very little in the country. Knows that they were there every day or so and hauled off wood to burn. Could not state the exact number of cords, but knows that she had a great quantity."

11th. John A. Dardenne testifies:

"On the 25th of April, 1874, Mrs. Hebert resided on Bayou Plaquemine and owned a plantation on said Bayou Plaquemine. She resided on her plantation during the year 1863, and at that time General Paine arrived and had his camp at the Indian Village. I know, furthermore, that she had stock on my place, and it was taken by Major Alcott and Captain Craig; they were detailed by General Paine. Major Alcott, I think, was of the One hundred and thirty-third New York Regiment, and Captain Craig was commanding Company K, of the Fourth Wisconsin. Their business was raising corn and making lumber and wood; I can not state the exact quantity taken. Wood was selling for $7 per cord, and corn at $1.75 and $2 per bushel. I think they must have taken from them, as their plantation was the first to their camp."

12th. W. C. Smith testifies that—

"During the years 1863 and 1864 I was a pilot on board of steam-boats plying on Red River and Mississippi, passing through Bayou Plaquemine. During those years I was acquainted with the plantation of Mr. Hebert on Bayou Plaquemine, some 7 or 8 miles below the mouth of said bayou. Mr. Hebert during that time was selling wood, keeping it, together with split lumber, at all times on the banks of Bayou Plaquemine, he keeping it for sale when an opportunity presented itself, and was also raising corn on said plantation. I know that for wood, up to the year 1863, in October, I paid myself from $6 to $10 a cord. This was the usual price paid for wood at that time. During the time spoken of, the country was occupied by Federal forces and wood was very high. At the time I paid this price for it I was engaged in neither Confederate nor Federal forces, but was running a steam-boat for private parties."

13th. Edward J. Gay testifies on the 10th of November, 1881, as follows:

"I am acquainted with Mrs. Eliza E. Hebert and her husband, J. J. Hebert, formerly of the parish of Iberville, in this State, and also with the plantation formerly belonging to them in Bayou Plaquemine. I bought from them about the year 1868 the woodlands back of their place, consisting of 400 acres of as fine timbered lands as there is in this State; never saw any willows growing thereon. Those lands still belong to me, and are admitted to be the best body of cypress timber in the parish, which is noted for its cypress timber as well as other valuable varieties. The timber from the Hebert tract of land was a source of profit to the Hebert family for over forty years, long before Jules J. Hebert inherited the place, and still the timber on a large part of the tract had not been reached, but was guarded by the former owners as a fortune."

14th. Wm. J. Woodruff and Isadore Daigle testify as follows:

"This is to certify that we, the undersigned, William J. Woodruff and Isadore Daigle, residents of the State of Louisiana, did on the 7th of April, 1880, measure the corn-houses on the plantation of Mrs. E. Hebert, in Bayou Plaquemine, in the parish of Iberville, State of Louisiana, and found the following measurement to be true and correct:

"One corn crib, 40 feet long by 20 feet wide, and 13 feet high.

"One corn crib, 18 feet long by 25 feet wide, and 8 feet high.

"One corn crib, 18 feet long by 15 feet wide, and eight feet high."

15th. General Halbert E. Paine has also testified in this case—

"That while at Indian Village, in Bayou Plaquemine, in the State of Louisiana, he was in command of the Second Brigade, Third Division, Nineteenth Army Corps; that his command was Eighth New Hampshire, One hundred and thirty-third New York, One hundred and seventy-fifth New York regiments and a battery of artillery of the Regular Army, and during the time that they remained at Indian Village and Plaquemine and the intermediate posts that there was no doubt that all the forage, fuel, corn, and wood used by his command was taken from the neighborhood; that while at the Indian Village he detailed Captains Craig, of the Fourth Wisconsin Regiment, and Alcott, of the One hundred and thirty-third New York Regiment, to seize necessary mules and horses, carts, wagons, forage, wood, and boats for the quartermaster's department, and sugar, beef, and pork for the commissary department of his command; that he required them to give receipts in a prescribed form for all property so taken, and to turn the same over to Lieutenants Wooster and Brevorts, brigade quartermaster and commissary; that he required said Wooster and Brevorts to take up the property so turned over to them, and to dispose of it according to law; that he required Captains Craig and Alcott to *inquire and report concerning the loyalty of all persons whose property they should seize*, and to avoid as far as they could the seizure of any property of *loyal* persons; that under this order so issued said officers, with the assistance of non-commissioned officers and privates detailed for that duty, made numerous seizures of property, which was used by affiant's said command. That affiant has no particular recollection as to the amount of the several kinds of property seized as aforesaid."

16th. Maj. John H. Alcott, one of the officers detailed by General Paine to make the seizures, has made, first, a statement to the Southern Claims Commission, in a letter dated April 5, 1873, in reply to an inquiry from the clerk, Charles F. Benjamin, in which he said that the troops under the command of General Paine encamped on Bayou Plaquemine on or about January, 1863, and remained there some six or eight weeks; but in that letter states that while he was acquainted with Mrs. Hebert, he did not recollect of her informing him at that time that she had sustained any losses by the troops while encamped there. He, however, afterward, on July 27, 1876, and March 12, 1879, in affidavits, corrects the statement in the letter above referred to, as to the taking of the property, as follows: In the affidavits of July 27, 1876, he states that in the year 1863 he was captain in the One hundred and thirty-third Regiment New York Volunteers, and was in the brigade commanded by Col. H. E. Paine, while in camp at Indian Village, near the plantation and home of Mrs. J. J. Hebert; and that, as well as he can recollect, there were quite a number of troops encamped there in the spring of 1863, probably about 4,000, and that these troops were there for a considerable time, and while there cord-wood and lumber were taken from their plantation and premises (Mr. and Mrs. Hebert) by the Army for the use of the same, and the cord-wood was used by the Army for fuel, and was necessary; and the lumber was used for flooring in the tents, the ground being very damp from overflow, and was necessary; and the said wood and lumber was so taken and used by officers and soldiers with the knowledge and authority of the officers, and was necessary at the time. The wood was used in the camp-fires to cook and wash by, and was indispensable, as neither officers or soldiers could do without some fire.

In the second affidavit, made March 12, 1879, he says—

"That while in camp at the Indian Village, Iberville Parish, La., near the plantation and house of Mr. and Mrs. Jules J. Hebert, he was detailed as forage master of the brigade at the time, his command comprising one captain besides himself and, as near as he can now recollect, some 20 enlisted men; that he visited the plantation of Mr. and Mrs. Hebert, and found thereon large quantities of cord-wood, lumber, corn, and other articles. Said wood, lumber, corn, etc., was seized by him and his command, stationed at Indian Village. Further, said wood, corn, lumber, etc., were taken to the camp in quantities as required, with the understanding that a receipt for the same should be given before the troops left. Said receipt was not given in consequence of the brigade having been suddenly ordered away. Further, that he was under the impression at the time he wrote the communication to the Southern Claims Commission, April 5, 1873, that it had reference to a plantation on the Mississippi River, near Plaquemine, that he supposed belonged to Mrs. Hebert. Further, that the place where the property was seized was known as Jules J. Hebert's plantation; that the stock, comprising cattle, sheep, mules, and hogs, were taken from the plantation of John A. Dardenne, and were claimed by Mrs. Hebert as her property while on our way to camp. The cows were given up to her, but the remainder were refused and driven to camp. Further, that it has been represented to him that a certain Jules O. Neraux (who was at the time about sixteen years of age) has made a statement to the effect that 'quantities of flour, pork, sugar, coffee, and so forth, were taken from the commissary stores by General Paine and his officers and given to Mr. and Mrs. Hebert in exchange for articles taken from them.' Said statement deponent knows to be untrue, as no such transaction took place, or could have taken place without his knowl-

edge. Further, that General Paine did make a present of a barrel of flour to Mr. and Mrs. Hebert, but it was not done in consideration of anything received or taken from them."

It will thus be seen by the testimony of the foregoing witnesses that her case is clearly established for the property charged for in her account by witnesses whose testimony has not been impeached, nor has it in any manner been successfully contradicted by any testimony given in the case. The witnesses who testify as to the property and the taking of the same for the use of the Army all speak from personal knowledge, having been on the ground at the time the property was taken. This is not only true of the officers and soldiers who took the property, but it is also true in regard to the citizens who have testified, both white and colored; they all speak from personal knowledge. It is a remarkable fact in this case that the testimony of all the citizen witnesses, both white and colored, is fully corroborated by the testimony of the officers and soldiers who took and used the property. The fact that there were no receipts given is fully explained by Major Alcott, the officer who was detailed to and who did take the property. He states:

"Further, said wood, corn, lumber, etc., were taken to camp in quantities as required, with the understanding that receipts for the same should be given before the troops left. Said receipts were not given in consequence of the brigade being suddenly ordered away."

In the same affidavit, "that the stock, comprising cattle, sheep, mules, and hogs, was also taken."

It will be remembered, as your committee has heretofore stated, that the Government, at the suggestion of the Committee on Claims in the Senate, who first examined this claim in the Forty-third Congress, investigated this claim through the agent of the Southern Claims Commission, Enos Richmond, who states that he made some investigation into the claim and reported it in December, 1876. This statement was made by Richmond in reply to a letter from Charles F. Benjamin, clerk of said Commission, and is as follows:

[Copy respectfully furnished by the Commissioners of Claims to the honorable Senate Committee on Claims, by Chas. F. Benjamin, clerk.]

JACKSON, MISS., *April* 8, 1878.

SIRS: I have just received a letter from Charles F. Benjamin inquiring about my report in the claim of Mrs. Eliza E. Hebert, of New Orleans, La.

In regard to the matter, will say that I made some investigations into the claim and reported it in December, 1876; but as the matter was pending before the Claims Committee in the Senate, I did not retain a copy of my report or of the evidence, as I usually do in cases pending before other Departments, hence can only give you my recollections of the report.

I reported the claimant as having been disloyal during the war, and gave aid to rebel scouts, etc., and that she did not own any of the property claimed, it all belonging to Jules J. Hebert, then her husband, and now divorced, and that *twenty-five hundred dollars* would fully cover all the property used by the Federal troops. The entire personal property of Jules J. Hebert did not exceed in value $8,000 or $10,000, and the Confederate scouts used the most of it and not the Federals. Jules J. Hebert was as disloyal as any of his neighbors, a fact well known in Bayou Plaquemine, La. Mr. Hebert admitted that Mrs. Hebert did not own any of the property in the claim, nor had she any community property under the law of Louisiana.

My report was based upon information received from S. M. Eaton, M. P. Williams, T. W. Colwell, William White, and others who lived near the claimant during the war. Mrs. Eliza E. Hebert, claimant, is the one who tried to persuade me to destroy the testimony in the claim of the estate of Isadore Daigle, No. 21683, a claim in which she was interested. I am satisfied that her claim is a fraud, both in regard to the property and loyalty, from the evidence I received in the matter while in Louisiana.

Very respectfully,

ENOS RICHMOND,
Special Agent.

Hon. COMMISSIONERS OF CLAIMS,
Washington, D. C.

It will be seen by this letter that Richmond states that his information was obtained from S. M. Eaton, M. P. Williams, T. W. Colwell, William White, and others, who lived near the claimant during the war. Three out of four of these witnesses named, to wit, William White, T. M. Colwell, and S. M. Eaton, swear that they knew nothing of the actions of Mrs. Hebert during the war, and that they knew nothing of

Mr. Richmond as representing the Government in the claim of Mr. Hebert. Mr. Colwell says, under oath, that—

"I positively never gave my testimony to any United States agent in your behalf, or against you or your husband, as I have never been aquainted with either of you, and therefore could not give any such testimony as you have been informed that I had given."

These two gentlemen were well-known planters residing at the time in the parish of West Baton Rouge, distant from 15 to 20 miles from the Hebert plantation. The other, Mr. S. M. Eaton, swears that he had no knowledge whatever of claimant or her husband, or of the loyalty of either; "that he never met or knew Mrs. Hebert before this day." In view of the foregoing sworn statements of the parties from whom Richmond says he obtained the information upon which he based his report, your committee can attach no importance to the statements of Mr. Richmond in his report.

The Government also made an investigation in regard to this claim in 1878, under the direction of the Chief of the Secret Service of the United States. This investigation was conducted by Azariah F. Wild, special operative of the New Orleans district. It appears from the report of Mr. Wild that this report was based on information obtained from John A. Dardenne, Jules O. Neraux, and James Dwyer. Dardenne and Neraux made affidavits and Dwyer made a statement not sworn to. This Mr. John A. Dardenne is the same Dardenne whose affidavit appears in favor of Mrs. Hebert's claim, and was made on the 25th day of April, A. D. 1874, heretofore set out in substance, and numbered No. 11, in which he states that Major Alcott took stock from his place belonging to Mrs. Hebert. In the affidavit made at the instance of Mr. Wild, he says, "that, being showed a list of the stock claimed as having been taken by the Federal troops under General Paine, he considered the same erroneous and in excess of the amounts taken." But he does not give any opinion or estimate of the amount taken, and evidently did not know, or he certainly would have stated it if he had known the fact, as the detective must have sought for that information. Your committee do not wish to be understood that they would not give proper credit to the statements of Mr. Dardenne, so far as his knowledge extended, but it is evident from his statement that he had no definite knowledge of the quantity of property taken.

Jules O. Neraux, who makes the other affidavit, is flatly and unequivocally contradicted by Major Alcott, the officer who took most of the property, and who gives a clear and plain statement of the whole transaction, so far as the facts testified to by Neraux are concerned, as well as all of the other witnesses who testify under oath on the same points. Mr. Dwyer's statement is not under oath, and beyond this he is contradicted by all the other witnesses who testify upon the same points, and notably by Dardenne, Smith, Woodruff, Daigle, Adamise Alexander, Ursin Le Blanc, and Edward J. Gay.

By a careful examination of the report of this detective, Wild, it will be seen that he has failed to find any evidence against the claim of Mrs. Hebert, either as to the amount of property charged for, its value, or the loyalty of either of the parties. He only produces the affidavits of two persons, Dardenne and Neraux, the former having very little knowledge on the subject, save what he had before testified to, and the latter being, as we have before stated, fully contradicted by Major Alcott and the other witnesses, and the unsworn statement of Mr. Dwyer, which your committe can not receive as controverting the testimony of the other witnesses who were under oath. This detective went into the neighborhood of this plantation and found three colored persons, whom he states would have corroborated the affidavit of Neraux; yet he did not even take their statements as he did that of Dwyer, nor does he pretend that he tried to get the affidavits of witnesses whom he knew had testified that they resided on the place at the time the property was taken, yet he closes his report by saying that—

"Could I have the necessary time or a reasonable amount of money allowed me so I could take a notary public and go to the parties, I could get over one thousand affidavits stating the facts, showing Eliza E. Hebert's claim to be a base fraud in every item therein mentioned, and that in fact she and her husband are under many obligations to General Paine and his officers for the liberal manner in which they exchanged Government commissary stores for a few head of sheep and two cows and five or six chickens."

Does not this detective pay a very high compliment to General Paine and his officers in making that statement?

The adverse witnesses in this case differ widely from the witnesses who have testified in favor of the claim, the latter maintaining that 180 acres were cultivated in corn, and the detective and his witnesses stating that not more than 40 acres were under cultivation, and one of the detective's witnesses stated that he thought that $3,000 was all it was worth. In order to determine these disputed questions, your committee have had recourse to the original title deeds of the property, and find upon examination of that instrument that the plantation consisted of two tracts of land; the front tract fronting on Bayou Plaquemine, measuring 4 arpents, more or less, front on said bayou by 40 arpents, more or less, in depth, together with all build-

ings and improvements thereon; and the second was a tract of land adjoining and in rear of the first tract, containing 443.04 acres, and the whole containing over 640 acres of land, 400 acres of which, as testified to by Edward J. Gay, who purchased the property from J. J. Hebert, was timber, and the other 200 arpents, more or less, as stated in the titled deed, contained the buildings and improvements thereon. An undivided interest in this property was acquired by Jules J. Hebert by inheritance from his brother, Treville Hebert, some time previous to June, 1859, and on the 20th of March, 1860, he acquired the title to the balance of said property, including two slaves, by purchase from his sister, for the sum and price of $11,750.

This must settle the question as to the quantity of improved land and the value of the plantation, showing that the property was worth at the time of the purchase the sum of about $22,000.

As to the value of the property claimed for, we have the testimony of Mr. Dardenne, who testifies in his first affidavit that corn was worth from $1.75 to $2 per bushel, and that wood was worth $7 per cord, and that of W. B. Smith, who testifies that he was purchasing wood at that time and paying from $6 to $10 per cord. We therefore value the wood at $6 per cord (the lowest price testified to) and the corn at $1.75 per bushel, and allow the claimant for 10,000 bushels of corn, instead of 8,000 barrels as charged in the account, as one barrel of corn gathered from the field and stored in cribs would, upon a fair estimate, as your committee believe, make a bushel and a peck of shelled corn—the 8,000 barrels aggregating 10,000 bushels. There are four witnesses who testify that 1,500 cords of wood were taken, yet as none of them swear that they made an exact measurement of it, but evidently estimated it as near as they could, your committee think that perhaps they have made too liberal an estimate. They have, therefore, concluded to allow the claimant for 1,000 cords, which is the same quantity allowed for by the former committees who have reported on the claim, and it is reasonable to suppose that that amount of corn and wood would have been used by 4,000 troops—infantry, cavalry, and artillery—camped in the immediate neighborhood in the months of January and February, and remaining for six or eight weeks, as Major Alcott testifies they did. The lumber is stated to have been worth $10,000, and was used for flooring tents and building quarters for 4,000 men, yet the quantity being arrived at by estimate instead of actual measurement, your committee have adopted the value placed upon it by the former committee, which was $5,000.

Your committee think that the testimony of Judge Moore would justify an allowance of $1,000 for the carriage horses. For the three riding horses, $150 each, making $450; for four mules, $150 each, $600; for thirty hogs, $10 each, $300; for five milch cows, $50 each, $250; for poultry, $100; for twenty beeves, $25 each, $500; aggregating the sum of $31,700, which amount your committee estimate only as a basis for arriving at a just conclusion as to what would be properly chargeable to the United States Government.

The fencing around the plantation was also taken and used, as is established by the evidence, for which the sum of $6,000 is charged; but the quantity, kind, and value of the fencing is not stated. Your committee are therefore unable to come to any conclusion as to the amount which ought to be allowed for this item.

It will thus be seen from the testimony of the witnesses, both as to the quantity and value of the property, that the charge made in Mr. Bragg's adverse report, that the claim was a fraud, has no foundation in fact. Then, as to the loyalty of the claimant, that branch of the case is established beyond cavil by the testimony of such witnesses as General Sheldon, now governor of New Mexico; A. H. Weaver, commander U. S. Navy; General Hurlburt, N. P. Banks, Thomas J. Durant, E. D. Townsend, Adjutant-General of the Army; Judge Rufus K. Howell, formerly of supreme court of Louisiana; Edward J. Gay and C. Dillingham, naval officers; Louis A. Wiltz, mayor of the city of New Orleans and afterward governor of the State of Louisiana, P. G. S. Deslonde, former secretary of the State of Louisiana; Governor William Pitt Kellogg, now United States Senator; Judge Don A. Pardee, United States circuit judge, and other prominent citizens, and no adverse testimony from any witness has been submitted to your committee.

It has been urged against this claim that it was not prosecuted before the Southern Claims Commission and is therefore barred. It appears that Mrs. Hebert, on the 24th of January, 1873, filed a petition in the Southern Claims Commission for what she thought to be one-half of the value of the property taken by the Government, as appears from her statement. After having filed this petition the fact became known to the clerk of the commission, from the statements of Mrs. Hebert, that she had a husband living from whom she had been divorced, whereupon the clerk advised her that she had no standing before the commission, as the claim in legal contemplation belonged to her husband. It should be here stated that at that time Mrs. Hebert had no legal adviser; she therefore returned to her home to endeavor to procure an assignment of the claim from her late husband, but did not succeed in accomplishing this until March 27, 1874, when she returned and found that the time for filing claims before the Southern Claims Commission had expired, and she then presented her pe-

tition to Congress, with the results above stated. This, your committee is of opinion, fully answers any objection that may have been raised against the claim on that ground, especially as no less than four committees of Congress have taken jurisdiction of the claim, and favorably reported upon it under the existing facts, and it passed the House once without objection, after a full consideration of that question. This we think is sufficient, so far as Mrs. Hebert is concerned, and fully excuses any apparent laches on her part.

Now, as to her husband. The reason assigned in the testimony of Mrs. Hebert, the petitioner, why the claim was not filed by her husband before the Southern Claims Commission within the time, in addition to the fact already stated, that he was very dissipated, is that he had been informed that the officers, General Paine, Major Alcott, and Captain Perkins, from whom he could gain proof, were killed at the battle of Port Hudson. It is further stated that Captain Perkins was killed at that battle; that General Paine, although not killed, did lose his leg in that battle, and lay as dead on the field for several hours, giving credit, as it is stated, to the report that he was dead; and the petitioner did not know the fact to be otherwise until she reached Washington and met General Paine here, who informed her of these facts. Mr. Jules Hebert makes affidavit, stating the same reasons in detail. It has been further claimed by Mr. Bragg, in a former report from this committee, that the assignment from Jules J. Hebert to Mrs. Eliza E. Hebert, the claimant, "is invalid, and if a claim existed would not carry it to this claimant." To support this proposition Mr Bragg relies upon the act of Congress, to be found on page 107, vol. 10 U. S. Stats. at Large, which is as follows:

"That all transfers and assignments hereafter made of any claim upon the United States, or any part or share thereof or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment for any such claim, or any part or share thereof, shall be absolutely null and void, unless the same shall be freely made and executed in the presence of at least two attesting witnesses, after the allowance of such claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof."

It is apparent to your committee that this act was not intended to meet any such case as this, but an entirely different class of cases. This act was passed to protect claimants against unscrupulous agents and other persons, who, from their superior knowledge of the status of claims pending before the various Departments of the Government, often took advantage of the ignorance of the claimants and purchased their claims for a trifling sum, in many cases on the eve of their payment. Thus all transfers and assignments were made void unless made and executed after the ascertainment of the amount, and the issuing of the warrant therefor; and under this law, all drafts for the payment of claims are made payable to the order of the claimant, and a power of attorney to collect the money must correctly describe the draft, giving amount, dates, etc., so that claimant can not be deceived as to the amount due him as determined by the accounting officers. This your committee understand to be the object and purpose of this law, and are clearly of opinion that it can have no application to the case under consideration; but were Mr. Bragg correct in his application of the law, it could only apply to one-half of the claim, for the reason that Mrs. Hebert was the absolute owner of one undivided half of the claim, as will be seen by what follows. It is shown by the evidence in this case that the property taken was on the plantation of Jules J. Hebert, the husband, and that the whole of the property was what was known under the laws of Louisiana as "movable or personal property," and that it was either the separate property of the husband or wife, or belonged to the community of acquests and gains existing between the husband and wife, as it is shown that the title to the real estate was in the husband, and therefore his separate property. The movable property being in the possession of and administered by him, the law presumes it to be community property. The rents, revenues, and profits arising from the separate property of the husband, as well as all property accumulated by the joint efforts of the husband and wife during marriage, are common effects or gains, which compose the partnership or community, and are divided into two equal proportions between the husband and wife at the dissolution of the marriage, whether by death or decree of divorce. The decree of divorce dissolving the marriage fixes the rights of the parties, and the wife becomes the absolute owner of the one-half of the community property, so that Mrs. Hebert was as much the real owner of the one-half of this claim as the husband was of the other half, and the assignment of the husband to her was an acknowledgment of her absolute right to one-half of the property and a legal transfer of the other half, and the act of assignment effected the partition between them.

The statement of Mr. Bragg, in his report, that—

"she entered into a conspiracy with her late husband, who, so far as the Government and its officers knew, had never pretended to have any claim, and took an assignment from him, and antedated it January 9, 1874, so that it would appear to have been in

her possession at a time prior to the report of the Senate committee, February 1, 1875, and prior to her filing and swearing to her claim before the Senate, March 10, 1874," is clearly erroneous, and not supported by any evidence, but, on the contrary, is most emphatically contradicted by the testimony of Ewing C. Ketchum, who presented the instrument to Jules J. Hebert and saw him affix his signature to it, and Thomas Sewel, W. J. Woodruff, and Chas. Merchand, who all swear that they saw the said assignment in the possession of Mrs. Eliza Hebert in 1874. In justice to Mr. Bragg, however, it is proper to say that this testimony has been given since his report was made. The affidavits of Messrs. Sewel and Merchand were sworn to and subscribed before A. Barnett, notary public, on the 15th day of November, 1881, in New Orleans, La., and that of Ewing C. Ketchum before Frank Olear, notary public, in the city of Saint Louis, on the 14th day of December, 1881, besides the fact that the instrument itself bears indubitable evidence of its genuineness. It is an act under private signature, signed by Mrs. Hebert in the presence of two witnesses—viz, M. L. Ainsworth and M. C. Dunn—and was by her acknowledged on the same day, to wit, the 9th day of January, 1874, and before M. L. Ainsworth, notary public, with his official seal attached, in New Orleans, La. The signature of Jules J. Hebert was appended to the assignment, at Saint Louis, in the State of Missouri, on the 27th day of March, 1874, in the presence of, and acknowledged before, John T. Orouck, notary public, with his official seal attached. This act then became a public act, as to Mrs. Eliza E. Hebert, on the 9th day of January, 1874, and as to Jules J. Hebert on the 27th day of March, 1874. It will thus be seen that the execution of this instrument by the respective parties was an act performed at different dates, one on the 9th day of January, and the other on the 27th of March, 1874, and acknowledged before officials some 1,200 miles apart, which of itself precludes the idea of there being any collusion or conspiracy in the matter.

Mr. Bragg further states in his report that "in January, 1873, claimant files a petition in the Claims Commission, making a claim for $23,000, and alleging that she is the assignee of Jules J. Hebert. This claim and assignment, *he says*, she swears to be true;" and upon that statement bases a charge of false swearing, fraud, and conspiracy, "to accomplish a raid upon the Treasury."

Your committee have examined the original petition filed by Mrs. Hebert and referred to by Mr. Bragg, and find that no such statement, as to the assignment, is contained in that petition, and for greater certainty on that point we annex hereto the original petition (marked Exhibit A) and make it a part of this report. We also annex the paper purporting to be a copy furnished by the Southern Claims Commission, which is evidently the paper upon which Mr. Bragg made this statement of false swearing, fraud, and conspiracy, "to accomplish a raid upon the Treasury," and mark it B for more particular reference. It is not believed by your committee that Mr. Bragg had the original petition before him when he made this statement, as it was not found among the papers of the War Claims Committee, but was found by your committee in the files-room of the House, among the papers of the Southern Claims Commission.

After a full and careful examination of the evidence in the case your committee are clearly of the opinion that Mrs. Eliza E. Hebert should be paid the sum of $21,090, in full satisfaction of all her claims for the property and supplies taken and used as aforesaid, and herewith report a bill for that purpose, and recommend its passage.

EXHIBIT A.

Copy furnished Committee of War Claims April 11, 1874, *where a claim is also pending for same property.*

PETITION.

To the honorable Commissioners of Claims under the act of Congress of March 3, 1871, *Washington, D. C.:*

The petition of Eliza E. Hebert respectfully represents—

That she is a citizen of the United States and resides at present at or near New Orleans, Orleans Parish, La., and that she resided when this claim accrued at or near Bayou Plaquemine, Iberville Parish, La.

That she has a claim against the United States for property taken for the use of the Army of the United States during the late rebellion at (or near) Bayou Plaquemine, Iberville Parish, La.

That the said claim, stated by items, and excluding any and all items of damage, destruction, and loss (and not use) of property; of unauthorized or unnecessary depre-

[illegible]tions by troops and other persons upon property, or of rent or compensation for the [illegible] or occupation of buildings, grounds, or other real estate, is as follows:

[illegible]	Quantities of articles.	Value.
1	8,000 barrels of corn, at $1.50	$12,000
2	500 cords of wood, at $6	3,000
3	100 chickens, at $1	100
4	200 turkeys, at $2	400
5	30 hogs, at $10	300
6	5 milch cows, at $100	500
7	8 oxen, at $50	400
8	5 horses, at $160	800
9	4 mules, at $125	500
10	Unknown quantity of lumber, consisting of hogshead staves, pickets, and posts, value estimated	5,000

That the property was removed to Indian Village and Plaquemine, and used for or by the troops of General H. E. Paine's brigade. All this on or about the —— day of ——, in the year 186—.

That no vouchers, receipts, or other writings were given for the property.

That your petitioner verily believes that the property described was taken under the following circumstances, or one or more of such circumstances, viz:

1. For the actual use of the Army, and not for the mere gratification of individual officers or soldiers already provided by the Government with such articles as were necessary or proper for them to have.

2. In consequence of the failure of the troops of the United States to receive from the Government in the customary manner, or to have in their possession at the time, the articles and supplies necessary for them or which they were entitled to receive and have.

3. In consequence of some necessity for the articles taken, or similar articles, which necessity justified the officers or soldiers taking them.

4. For some purpose so necessary, useful, beneficial, or justifiable as to warrant or require the Government to pay for it.

5. Under the order or authority of some officer, or other person connected with the Army, whose rank, situation, duties, or other circumstances at the time authorized, empowered, or justified him in taking or receiving it, or ordering it to be taken or received.

That your petitioner and her husband, Jules J. Hebert, of Iberville Parish, Louisiana, were the original owners of said claim, and your petitioner is the present owner of the same.

That your petitioner and her husband remained loyally adherent to the cause and the Government of the United States during the war, and were so loyal before and at the time of the taking of the property for which this claim is made, and she solemnly declares that, from the beginning of hostilities against the United States to the end thereof, their sympathies were constantly with the cause of the United States; that they never, of their own free will and accord, did anything, or offered, or [original torn at this point.]

That said claim has not before been presented to any officer or department of the Government for payment, nor has any payment been made by the Government on account of such claim.

ELIZA E. HEBERT.

DISTRICT OF COLUMBIA, *County of Washington:*

Eliza E. Hebert, of Orleans Parish, La., being duly sworn, deposes and says: That she is the petitioner named in the foregoing petition, and who signed the same; that the matters therein stated are true, of the deponent's own knowledge, except as to those matters which are stated on information and belief, and as to those matters she believes them to be true; and deponent further says that her husband did not voluntarily serve in the Confederate Army or Navy, either as an officer, soldier, or sailor, or in any other capacity, at any time during the late rebellion: that they never voluntarily furnished any stores, supplies, or other material aid to said Confederate Army or Navy, or to the Confederate Government, or to any officer, department, or adherent of the same in support thereof, and that they never voluntarily accepted or exercised the functions of any office whatsoever under, or yielded voluntary support to, the said Confederate Government.

ELIZA E. HEBERT.

Sworn and subscribed in my presence the 24th day of January, 1873.

A. O. ALDIS. [L. S.]

Names and residences of witnesses who will be relied upon to prove loyalty: Hon. B. F. Flanders, New Orleans; Hon. Michael Hahn, New Orleans; Edward J. Gay, merchant and planter, New Orleans; Hon. E. H. Durell, U. S. judge, New Orleans; Christian Coselius, lawyer and judge, New Orleans: George W. Brott, New Orleans.

Names and residences of witnesses who will be relied upon to prove the other facts alleged in the foregoing petition. [Original torn at this point.]

EXHIBIT B.

Copy of the petition of Mrs. Eliza E. Hebert, filed with Southern Claims Commission January 24, 1874.

PETITION.

To the honorable Commissioners of Claims, under the act of Congress of March 3, 1871, *Washington, D. C.*

The petition of Eliza E. Hebert respectfully represents:

That she is a citizen of the United States, and resides at present at or near New Orleans, Orleans Parish, La.

That she has a claim against the United States for property taken for the use of the United States Army, as follows:

1. 8,000 barrels corn, at $1.50	$12,000.00
2. 500 cords of wood, at $6	3,000.00
3. 100 chickens, at $1	100.00
4. 200 turkeys at $2	400.00
5. 30 hogs, at $10	300.00
6. 5 milch cows, at $100	500.00
7. 8 oxen, at $50	400.00
8. 5 horses, at $160	800.00
9. 4 mules, at $125	500.00
10. Unknown quantity of lumber, consisting of hogshead staves, pickets, and posts, value estimated	5,000.00
Total value of property	23,000.00

That all the items in the above schedule were of the full value therein set forth, and were ——— your petitioner for the use of and were used by the United States Army, and was removed to Indian Village and Plaquemine, and used for and by the troops of General H. E. Paine's brigade.

That no voucher, receipt, or other writing was given therefor.

That your petitioner and her husband, Jules J. Hebert, resided at the time said claim accrued at Iberville Parish, Louisiana.

That your petitioner and her husband, Jules J. Hebert, were the original owners of said claim, and that your petitioner is the present owner of the same, she having an assignment of her husband's interest.

That your petitioner and her husband remained loyal adherents to the cause and Government of the United States during the war, and so loyal before and at the time of the taking of the property for which this claim is made.

That said claim has never before been presented.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

Eliza E. Hebert, being duly sworn, deposes and says that she is the petitioner named in the foregoing petition, and who signed the same; that the matters therein stated are true, of the deponent's own knowledge, except as to those matters which are stated on information and belief, and as to those matters she believes them to be true; and deponent further says that she did not voluntarily serve in the Confederate Army or Navy, either as an officer, soldier, or sailor, or in any other capacity, at any time during the late rebellion; that she never voluntarily furnished any stores, supplies, or other material aid to said Confederate Army or Navy, or to the Confederate Government, or to any officer, department, or adherent of the same in support thereof, and that she never voluntarily accepted or exercised the functions of any office whatsoever under, or yielded voluntary support to, the said Confederate Government.

ELIZA E. HEBERT.

Sworn and subscribed in my presence the 24th day of January, 1873.

[L. S.] A. O. ALDIS.

Names and residences of witnesses who will be relied upon to prove loyalty: Hon B. F. Flanders, New Orleans, La.; Hon. Michael Hahn, New Orleans, La.; Edw'd J. Gay, merchant and planter, New Orleans, La.; Hon. E. H. Durell, United States judge, New Orleans, La.; Christian Corselius, lawyer and judge, New Orleans, La.; George W. Boott, New Orleans, La.

Names and residences of witnesses who will be relied upon to prove the other facts alleged in the foregoing petition: Celestine Martin, col'd, New Orleans, La.; Sarah Martin, sold, New Orleans, La.; Archille Lewis, col'd, New Orleans, La.; Lizzie Lewis, col'd, Baton Rouge.

Post-office address of claimant, New Orleans, La., 15 Dauphin street.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 55.

SAMUEL O. FISHER.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1528.]

The Committee on Pensions, to whom was referred the bill (H. R. 1528) to pension Samuel O. Fisher, have had the same under consideration and respectfully report:

A similar bill was considered by your committee at the second session of the Fifty-first Congress and the favorable report made at that time (No. 3874) reads as follows:

[House Report No. 3874, Fifty-first Congress, second session.]

The Committee on Pensions, to whom was referred the bill (H. R. 12700) granting a pension to Samuel O. Fisher, have considered the same and report as follows:

Mr. Fisher was one of the crew of the United States whaling ship *Magnolia*, which vessel cleared from the port of New Bedford, Mass., June 19, 1845, for a whaling voyage in the Pacific Ocean. While on said voyage the ship touched the shores of Mexico at a place called San Joseph, where they were spoken by a trading sloop to go to the rescue of the garrison at said place, which was in possession of our American troops (28 men), but which was surrounded by several hundred Mexicans, cutting off the water front. The *Magnolia* was joined by the whaling ship *Edward*, and your committee quote the following from the report on the bill passed at this term for the relief of Charles H. Perry, one of the crew of the *Edward:*

The whaling ship *Magnolia* dropped anchor near the *Edward*, and at the request of the garrison the forces of the two ships were combined, making a force of about 60 men, who landed, drove the enemy back, and remained there until the United States ship *Relief* relieved them. In order to perform the service above named the ships *Edward* and *Magnolia* were left in charge of two men each, and the landing force marched 1½ miles to reach the garrison. After relief came the ship *Edward* took dispatches to Commodore Shubrick, who was stationed at Mazatland with the squadron. Commodore Shubrick returned thanks in behalf of the Government for the service rendered by the *Edward* on that occasion, and at his request the *Edward* carried fixed ammunition, shells, etc., back to the garrison.

The official report of the U. S. Fish Commission for 1875–'76 contains at the bottom of page 113 the following statement:

"The London Mercantile Gazette of October 22, 1852, said: The number of American ships engaged in the southern whale fisheries alone would of themselves be nearly sufficient to man any ordinary fleet of ships of war which that country might require to send to sea. Instances are not wanting, indeed, where whalemen have undertaken yeomen service for their country. Thus, in November, 1846, Capt. Simmons, of the *Magnolia*, and Capt. John E. Barker, of the *Edward*, both of New Bedford, hearing that the garrison of San José, Lower California, was in imminent danger, landed their crews and marched to its relief, etc."

The testimony of David P. Caswell, which accompanies the bill for the relief of Mr. Fisher, shows that he (Caswell) was one of the crew of the *Edward* and was present at the time stated and saw the applicant with the men who marched to the relief of the garrison.

In view of the exceptional service rendered and the fact that others who took part in the gallant and patriotic rescue of the garrison of San José have been granted pensions, your committee return the bill with a favorable recommendation.

Amend by changing the name of the claimant's ship to *Magnolia*.

Your committee in the light of all the facts, are of the opinion that the bill for the relief of Samuel O. Fisher, is a meritorious one and the same is therefore returned with the recommendation that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 56.

MARGARET TURNER.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3199.]

The Committee on Pensions, to whom was referred the bill (H. R. 3199) granting a pension to Margaret Turner, have given the same due consideration, and respectfully report:

The claimant is the widow of Isham Turner, who served as a private in the company commanded by Capt. Stell, in Lieut. Col. Wood's Third Battalion Georgia Volunteers, Florida Indian war. He enlisted June 3, 1836, and was honorably discharged with the company on August 31, 1836, at West Point, Ga.

William A. Todd and J. L. Stroope, citizens of Clark County, Arkansas, swear that the claimant is about sixty-five years old, infirm in health, with no property or income, and entirely dependent upon her relatives for support.

There are many precedents for the proposed legislation, and your committee, believing the bill to be meritorious, respectfully return the same, recommending its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 57.

JANE SHIERRY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUTLER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 724.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 724) granting a pension to Jane Shierry, submits the following report:

Jane Shierry, this claimant, was the mother of Henry E. Shierry, late a private in Company A of the Thirty-eighth Iowa Volunteer Infantry, who died while in the army service at Vicksburg, Miss., August 13, 1863, as shown by the report of the Adjutant-General's Office.

That said Henry E. Shierry was a true and faithful soldier is evidenced by affidavit of his captain, J. J. Berkey, on file in this case.

The testimony on file in this case shows that at the time of his death said soldier left a widow and minor children. The widow remarried in February, 1865, and since that time has lived with her present husband, and now lives with him in Freeport, Ill., and is not receiving, and has not since said date received, any pension on account of the death of said Henry E. Shierry.

That the minor children of said Henry E. Shierry ceased receiving pension under the law, and have not received such pension since 1878, the youngest at that time passing the legal age as pensionable minors. Hence no one is receiving any pension for any cause on account of the death of the said Henry E. Sheirry.

That before the war this claimant, Mrs. Jane Shierry and her husband, being the parents of said Henry E. Shierry, did give to him a farm of 80 acres and with house and barn thereon, and the usual appurtenances for farming, on condition that in case said parents should ever need his assistance he would care for them.

That the husband of Jane Shierry died ten years ago, leaving this claimant in destitute condition and dependent on charity. She is paralyzed and not able even to wait on herself.

These facts are so well attested as to leave no room for doubt, and your committee deems this a case, though not perhaps under the law, yet in reality the case of a "dependent mother," and in such extreme need as to justify the claim.

Therefore, your committee reports back the bill without amendment with the recommendation that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 58.

SKRAINKA CONSTRUCTION COMPANY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MANSUR, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 997.]

The Committee on Claims, to whom was referred the bill (H. R. 997) for the relief of the Skrainka Construction Company, state that they have had the same under consideration and recommend that the same do pass.

The United States is the owner of a certain building at the corner of Third and Olive streets, St. Louis, Mo., long used as a custom-house. The city of St. Louis, under ordinances of the city, repaved with granite its streets and alleys in all the business parts of the city. The Government has paid its pro rata of paving for Olive and Third streets, the same being done by a specific clause in the deficiency act approved March 3, 1885. The Treasury Department raises no objection to this claim except to say they have no authority to pay for the alley.

TREASURY DEPARTMENT, OFFICE OF THE SUPERVISING ARCHITECT,
Washington, D. C., January 29, 1891.

GENTLEMEN: In reply to your letter of the 19th instant, relative to payment of your account for paving street is rear of the old custom-house at St. Louis, Mo., I inclose herewith a copy of letter this day addressed to Hon. Nathan Frank, in response to his request for the issue of instructions for payment of the amount.

Respectfully yours,

JAS. H. WINDRIM,
Supervising Architect.

The SKRAINKA CONSTRUCTION COMPANY,
Granite Building, Fourth and Market streets., St. Louis, Mo.

TREASURY DEPARTMENT, OFFICE OF THE SUPERVISING ARCHITECT,
Washington, D. C., January 29, 1891.

SIR: In reply to your note of the 27th instant, asking that the surveyor of customs at St. Louis be authorized to pay $311.10 to the Skrainka Construction Company, for paving street adjacent to the old custom-house, from the special appropriation of $40,000, made for said building, I regret to state that this action can not be taken under the law.

The act in question provides for heating apparatus, elevator, and completion of enlarging and repairing the building.

The United States is not subject to taxation or assessment upon property over which jurisdiction has been ceded to the United States by legislative action, and the Department can not pay bills presented under municipal assessment for street paving, except provision therefor be made by specific act of Congress.

The cost of certain paving on the Third and Olive streets fronts of the building named was paid by the Department in 1885, provision therefor having been made by specific clause in the deficiency act approved March 3, 1885. The Skrainka Construction Company have, by letter addressed this office, claimed this payment as a precedent which should govern the payment of their bill now presented, presumably not being aware of the facts in the case.

A reply has this day been addressed the company to their communication, inclosing a copy of this letter.

Respectfully yours,

JAS. H. WINDRIM,
Supervising Architect.

Hon. NATHAN FRANK,
House of Representatives.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 59.

D. M. WINN.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MANSUR, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1534.]

The Committee on Claims, to whom was referred the bill (H. R. 1534) for the relief of D. M. Winn, have had the same under consideration, and find that this same matter was passed upon in the Fifty-first Congress, first session, wherein this committee recommended that the bill do pass (see House Report 1788), and for the facts and reasons stated in said report your committee readopt the same as their report herein.

[House Report No. 1788, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred House bill 7537, for the relief of D. M. Winn, have considered the same and report it to the House with the recommendation that it do pass.

The claimant, D. M. Winn, was postmaster at Haskell, Tex., in 1888, and had an assistant, one A. M. Winn, who, on November 14, 1888, without the knowledge or consent of the claimant, and wrongfully signing and forging claimant's name, applied to the Auditor of the Treasury for Post-Office Department, requesting to be allowed a credit of $2,500 with some first-class post-office to meet the payments of money-orders.

As shown by the report of the inspector it appears that on this request the Superintendent of the Money-Order System sent three drafts on the postmaster at New York respectively for the sums of $800, $700, and $500, to be filled out, dated, signed, and negotiated by the postmaster at Haskell, Tex., the funds received therefrom to be used in paying money orders at Haskell, Tex. These drafts were inclosed in a letter addressed to the postmaster at Haskell, and registered at Washington, D. C., November 22, 1888. When this letter reached Haskell, Tex., it fell into the hands of M. A. Winn, assistant postmaster, and he, without the knowledge of the postmaster, opened this letter and dated, filled out, and forged the name of D. M. Winn to the three drafts and mailed them to the First National Bank at Abilene, Tex., with request to cash the drafts and send money by registered letter to the postmaster at Haskell, Tex. The drafts, being improperly indorsed, were returned by the bank to be properly indorsed. This letter fell into the hands of the assistant postmaster without the knowledge of the postmaster.

The assistant postmaster then indorsed the drafts as indicated by the bank, forged the name of D. M. Winn thereto, and sent same back to said bank to be cashed. The said bank then cashed the drafts and sent by registered letter as a first installment of the payments $500, addressed to the postmaster at Haskell, Tex. This letter reached Haskell on Saturday night and fell into the hands of A. M. Winn, assistant postmaster, who appropriated the contents to his own use and on Monday morning left for parts unknown. The remainder of the money, less $5 for exchange, reached the postmaster, D. M. Winn, after the flight of his assistant, and has, with the $500 stolen by his assistant, been by him accounted for to the Government. The inspector

further says that from all the correspondence in the case and all the circumstances connected with it it appears evident to him that D. M. Winn, postmaster, was not in any way implicated in the forgery and had no knowledge of the dishonesty of his assistant prior to the forgery.

There is an extensive correspondence on the subject furnished by the Post-Office Department which the committee have had before them, but the above, it is believed, is a sufficient statement for the purpose of this report. The committee are of the opinion that in view of all the facts it would be harsh upon the claimant to force him to sustain this loss, the result of fraud and forgery in which he was not connected in any culpable way, and therefore recommend that he be relieved by the passage of the accompanying bill.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 60.

JOHN S. LOGAN, ASSIGNEE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MANSUR, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 4267.]

The Committee on Claims, to whom was referred the bill (H. R. 4267) for the relief of John S. Logan, assignee, have had the same under consideration, and report it back to the House, with the recommendation that it do pass.

For the facts and reasons upon which this recommendation is based your committee adopt the report of this committee on this same bill made to the Fifty-first Congress, first session, being House Report 120.

[House Report No. 120, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 5588) for the relief of John S. Logan, assignee, have had the same under consideration, and report the same favorably, as this committee also did in the Fiftieth Congress, first session (see H. R. 1927), but with this amendment to the pending bill, to wit, insert after the word Logan in the fifth line the words "assignee of the Western Bank of Missouri."

[House Report No. 1927, Fiftieth Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 7105) for the relief of John S. Logan, having had the same under consideration, report:

This bill was favorably reported at the first session of the Forty-fourth Congress to the Senate, and passed by that body on December 12, 1876; that it failed in this body to be reached. At the second session of the Forty-sixth Congress it was again favorably reported to the Senate, and it has been almost continuously before Congress ever since.

On the 23d day of September, 1861, a regiment of Iowa troops, under the command of Col. John Edwards, then denominated "Edwards's Independent Iowa Regiment," was stationed in St. Joseph, Mo., for the purpose of holding that section of the State of Missouri against a threatened invasion by forces from Price's army, after the battle of Lexington. The command was suffering for want of clothing and shoes, and its provisions were exhausted. Hurriedly brought into the field, the regiment was not provided with funds to purchase supplies, and there seems to have been no known enemy in reach from whom supplies could be captured.

In this condition the Western Bank of Missouri, doing business in that place, and of which John S. Logan afterward became the assignee, was applied to by the commissary and colonel of said regiment for money with which to purchase said supplies. The case was urgent. The colonel and commissary represented, truthfully, we doubt not, that they had the authority to draw their draft on the treasurer of the State of Iowa for the money the regiment needed, and they did so draw for $1,000, and said bank took the draft and advanced the par value thereof to said regiment. There is no question but that the bank paid the money and that it was used in purchasing supplies for the men of the regiment. The bank has never been repaid any part of this money, and the State of Iowa has failed to pay it.

C. L. Kellogg, now a respectable citizen of Adams County, Ill., testifies, under oath, that during the months of August, September, and October, 1861, Col. Edwards marched his command into the State of Missouri to combat and drive away a large body of Confederate forces, then drilling in that State and harassing the Union people along the northern line thereof, driving many of them from their homes into Iowa for safety. That Edwards's command numbered 1,400 men, rank and file; that said troops marched into St. Joseph and one-half remained there, while the other half, under the command of Lieut. Col. George H. Howley, was sent to Chillicothe, Mo.; that he was quartermaster and part of the time commissary of said regiment; that the troops left their homes in Iowa hurriedly, with nothing but the suits they wore, and that by the time they reached St. Joseph a change of underclothes was demanded by every consideration of health and comfort; that the men were without provisions or money, and needed clothing, and threatened to return home if their common wants were not supplied; that he consulted the colonel, and, with his approbation, laid before the officers of the bank the "dire necessities" of the situation, and the authority to draw the draft on the State of Iowa; that on it the money was obtained from said bank and was used faithfully in purchasing supplies for the men; that the clothing was charged to each officer and soldier receiving the same, and was deducted from their pay by the auditing committee of the State of Iowa in settling with the Iowa troops; and he closes his affidavit by saying that "said claim is just and should be paid," and that he has no interest whatever in the claim.

Your committee are compelled by the evidence to believe that the officers of this bank performed a most creditable, patriotic, and humane action in thus aiding our soldiers with the necessaries of subsistence at a most critical period in the northern part of Missouri, and that it would be an act of great injustice to refuse to repay the actual money thus furnished in support of the Union cause in the first year of the great struggle. It seems like a great hardship that no interest can be allowed on the $1,000 furnished in 1861, but believing the policy of the Government to be against such allowance of interest, your committee recommend that the said bill (H. R. 7105) do pass with the following amendments: Strike out of sixth line the words "two thousand six hundred and twenty" and insert in lieu thereof the words "one thousand." Also strike out the tenth and eleventh lines.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 61.

D. P. ABBOTT, A. S. KEEVES, AND T. E. SMITH.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MANSUR, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 4270.]

The Committee on Claims, to whom was referred the bill (H. R. 4270) for the relief of D. P. Abbott, A. S. Keeves, and T. E. Smith, have had the same under consideration and find that this bill, in substance, has heretofore twice had the approval of this committee, to wit, in the Fiftieth Congress and again in the Fifty-first Congress, and your committee adopt as their own the report made to the Fifty-first Congress (House Report 113), and for the reasons and facts there stated recommend the passage of this bill.

House Report No. 113, Fifty-first Congress, first session.

Mr. MANSUR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 5782.]

The Committee on Claims, to whom was referred the bill (H. R. 5782) for the relief of D. P. Abbott, A. S. Keeves, and T. E. Smith, have had the same under consideration, and now report as follows:

That in the Fiftieth Congress a bill (H. R. 12214) practically the same as this bill was introduced and referred to this committee, the object of said bill being to credit Charles E. Hasbrook, collector of internal revenue of the sixth district of Missouri, with the sum of $4,946.58, being the face value of certain internal-revenue stamps which were stolen by burglarious entrance into the office of James G. Walker, deputy collector under said Hasbrook, at the city of St. Joseph, Mo., on or about September 25, 1888, so as not to hold said Hasbrook accountable to the Government for the loss of said internal-revenue stamps or their value.

Since then the said Charles E. Hasbrook has gone out of office and closed his accounts with the Government, but it appears from the papers submitted to your committee, and herewith submitted, that the said J. G. Walker was under a bond in the sum of $———, with the said Abbott, Keeves, and Smith as his sureties, to secure Hasbrook from loss by him as his deputy; that prior to going out of office Hasbrook demanded of his deputy, Walker, that he consult his sureties and raise the money, "as it would be impossible for him to carry the shortage on the books after he went out of office, and the money will have to be provided." The sureties raised the money and paid it to Hasbrook, who in turn settled with and paid the Government, all of which appears from the papers submitted.

The object of the pending bill is to substitute the sureties, who have paid for the stolen stamps, for the collector, Hasbrook.

All facts relating to the burglary and loss of the stamps fully appear from the report and papers presented with it, made upon bill H. R. 12214, being House Report No. 4067, Fiftieth Congress, second session. As said report was favorable, and your committee are still satisfied with it, they adopt it now, upon the questions of burglarious theft and amount of loss, etc. And accordingly your committee recommend bill H. R. 5782 do pass.

[House Report No. 4067, Fiftieth Congress, second session.]

The Committee on Claims, to whom was referred the bill (H. R. 12214) for the relief of Charles E. Hasbrook, having had the same under consideration, submit the following report:

Charles E. Hasbrook is the collector of internal revenue for the sixth district of the State of Missouri, and the object of the relief sought grows out of the following facts shown by the record:

On the night of September 25, 1888, the office of James G. Walker, deputy collector of internal revenue at St. Joseph, Mo., within the said sixth district of Missouri, was burglariously entered, and certain internal-revenue stamps of the *face value* of $4,946,58, for which the said Charles E. Hasbrook, collector of internal revenue, is responsible, were stolen, and although every reasonable effort has been made in that direction, the same have not been recovered nor the thief apprehended. These stamps were of a character—not being marked with serial numbers, being tobacco, cigar, and beer stamps—which renders their use to the detriment of the Government possible; but if the use of the same by any manufacturer of tobacco or brewer shall be hereafter detected, the said parties are by law indictable for felony, for which crime severe punishment is provided.

While no direct facts in this connection have been developed, suspicion of complicity in the burglary and theft of these stamps falls upon a person previously employed by Deputy Collector Walker in his office, who was discharged for gross malfeasance and appropriation of Government money, which his relatives subsequently made good to the amount of $300.

Deputy Collector Walker kept these stamps in a wooden box, easily pried open, which was done in the accomplishment of this theft, and his office, in a public building, was protected only by an ordinary lock. The Government provides no iron safes or other comparatively secure repository for this character of Government property, and even if it did, there is always risk of successful burglary at the hands of expert thieves. The fact of these stamps being kept in a wooden box was known to the person suspected of complicity in the robbery, and the supposition is that his familiarity with the premises rendered the burglary comparatively easy. So far as is known these stamps have not been used to the detriment of the Government, and in view of the great risk attending their illegal use by manufacturers of tobacco and cigars, and brewers of beer, it is possible they will not be thus used.

Rewards have been offered by Deputy Collector Walker for the recovery of the stamps and arrest of the thief, so far without effect, and the steps taken by Government officials to trace these stolen stamps have not met with success.

It further appears that at the date of the robbery Deputy Collector Walker was absent on official duty, canvassing and inspecting his district, and that the office at St. Joseph was in charge of Deputy Collector L. O. Stiles. Both deputies make affidavits as to the facts, which are sustained by the report of Internal-Revenue Agent George B. Clark, who was directed to examine into the case. Both deputies swear they used all care and diligence at their command for the safe-keeping of these stamps, and have exhausted all means in their power for apprehension of the thief and recovery of the stamps.

Under the precedents established in like cases, your committee are of opinion that the relief contemplated by the bill should be granted. No loss has so far occurred to the Government save the paper and printing of the stamps, and it would be unjust to Collector Hasbrook and his sureties, under the circumstances, to hold them responsible for the mere face value of the stolen stamps.

Your committee, therefore, recommend passage of the bill.

APPENDIX.

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, December 18, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of 15th instant, and herewith inclose certified copies of papers in this office showing the facts in the case of the loss by theft of certain internal-revenue stamps, amounting to $4,946.58, from the office of the deputy collector at St. Joseph, Mo., in September last, as follows:

Affidavit of James G. Walker, deputy collector, September 27, 1888.

Affidavit of L. O. Stiles, deputy collector, September 27, 1888.

Letter of James G. Walker, deputy collector, to Collector Hasbrook, dated September 27, 1888.

Letter of Collector Hasbrook to commissioner, September 28, 1888.
Report of Revenue-Agent George B. Clark, October 11, 1887.

Referring to your request for such suggestions as may appear to me proper to make to the end that you may be possessed of such data as will enable you to secure action of Congress at the present session looking to the relief of Collector Hasbrook and his sureties, I reply that I know of no data or facts in the case other than are contained in the copies inclosed.

In reply to your request also to be advised whether the stamps stolen can be used without detection, to the loss or detriment of the Government, I have to state that the stamps can be so used (possibly without detection).

Respectfully, yours,

E. HENDERSON,
Acting Commissioner.

Hon. WILLIAM WARNER,
House of Representatives.

ST. LOUIS, MO., *October* 11, 1888.

SIR: I have the honor to report that having learned recently, while engaged in the fourth district of Iowa in the discovery of violations of internal-revenue law, of the alleged robbery of the internal-revenue stamp office at St. Joseph, sixth district Missouri, of a large lot of stamps, I communicated with Collector Hasbrook by telegraph concerning the same, he in reply asking me to visit St. Joseph and investigate the matter and inform him of my conclusions.

Accordingly, on the night of the 3d instant, the earliest moment practicable after the receipt of my first intelligence of the occurrence, I left for St. Joseph, arriving there on the morning of the 4th and entering at once upon my investigation.

Before making my presence in the city known, I took steps to advise myself fully of the character and habits of the parties most interested in the matter, and from the most reliable and valuable sources to inform myself of public opinion regarding it. The result of my investigations in this line were all to the credit of Deputy Collector James G. Walker and his assistant, Deputy Collector L. O. Stiles, touching the question of their integrity.

After securing all information available from outside sources, I called upon Deputy Collector Walker, at his office, and proceeded with my investigation, eliciting the following facts:

At about 5 o'clock on the evening of Tuesday, 25th ultimo, as stated to me by Deputy Collector Stiles, the latter locked the office door and left for the night, leaving the stock of stamps on hand in a wooden box lying on the floor of the office. The room occupied by Deputy Walker for office purposes was up to a few days since located in the city hall building of St. Joseph. This room is the one occupied for several years past for this purpose, including at least a part of the period of Collector Doppler's incumbency of the collectorship of the sixth district. The only safeguard for the protection of the records and other property of the United States kept there was a very small safe, barely adequate to the storage of the record books pertaining to the office, and not large enough to receive a package of internal revenue stamps. This safe is the private property of Deputy Walker. The stamps on hand have, I learn, been kept at all times in a common wooden box, kept placed on the floor of the office. The box is, I should judge, about 2 feet in length, 18 or 20 inches in width, and about 10 inches in depth. (At the time of my examination of it, having no rule with me, I did not measure it.) It is constructed of ordinary soft lumber, the lid or cover secured to it by very common hinges, and a hasp and staple with a small padlock the only fastenings to it.

This fastening, even, had become so loosened with use that the box could be opened easily without the use of a key by removing the staple with a knife-blade or by the employment of some very slight leverage. The custom had long prevailed, according to the statements of both Deputies Walker and Stiles, of leaving, at the close of each day's business, all the internal-revenue stamps on hand in this box, the lid closed, but without even the formality of turning down the hasp and locking the padlock, so insecure were these fastenings at best in the way of protection.

This was the condition in which, according to his statement to me, Deputy Stiles left the stock of stamps on hand upon leaving the office on the evening of the 25th ultimo. The office door was fastened by a very common lock, and could be opened, apparently, quite easily, by any one desiring to enter, without the aid of the key.

Deputies Walker and Stiles state that they arrived at the office at about the same moment on Wednesday morning, the 26th ultimo, and found the office door unlocked and ajar. Upon entering their attention was immediately attracted to the stamp-box, sitting in its usual position on the office floor, the lid being thrown back, and

evidently a large proportion of the stamps deposited in it on the previous evening had been removed and carried away; no trace whatever of the perpetration of the theft otherwise being visible about the room.

The following is a schedule of the stamps missing from the stock with which that office is charged on the books of the collector at Kansas City, with their money values:

	Number.
Tobacco stamps:	
Two-ounce stamps	6,000
Four-ounce stamps	6,197
Eight-ounce stamps	2,245
Sixteen-ounce stamps	2,818
Values of foregoing	$499.18
	Number.
Cigar stamps:	
Twenty-five cigar stamps	582
Fifty cigar stamps	10,000
Value of same	$1,543.65
	Number.
Beer stamps:	
One-barrel stamps	325
One-quarter barrel stamps	10,000
One-eighth-barrel stamps	630
Value of same	$2,903.75

Total face money-value missing stamps, $4,946.58.

I found Deputy Walker apparently suffering great anxiety of mind with regard to the loss, and learned from other sources that such had been the case continuously since the occurrence; also, that he had industriously adopted every expedient occurring to him calculated to enable him to locate and recover the missing property. Among other measures he had issued a printed postal-card circular giving the kind and denomination of each of the lots of stamps taken, offering a reward of $50 for the recovery of same, copies of which had been mailed to collectors and stamp deputies of other districts for information.

My investigation developed nothing regarding the abstraction of these stamps conflicting with the sworn statements submitted by deputies Walker and Stiles (which were, I am informed, forwarded to you by Collector Hasbrook for information) save as to the exercise of due care.

Deputy Walker had as an assistant in his office a few months since, a young man, a resident of St. Joseph, named Westpheling, whom, having caught in peculations from the receipts of the office, he discharged, a brother-in-law of the culprit making good the amount of these peculations to Deputy Walker to the extent of about $300, as the latter informs me. Westpheling abandoned his family and home on the night following the discovery of these peculations, and it has not been known, that I could learn of, that he has been seen in St. Joseph since.

I would respectfully state that I regard it as highly probable that Westpheling (who has, I learned, assumed a fictitious name since his departure from St. Joseph) may be located very soon, with fair prospect of developing facts sustaining this theory of a robbery of the office having been committed either by himself or by some other party acting under his information and instructions.

An especial object, also, of my investigation was that I might obtain means of identification of any of the missing stamps, with a view to tracing and possibly recovering them should they be kept within my division, or should I locate them elsewhere.

No stamps, however, bearing serial numbers as a means of identification having been taken, it is altogether a matter of speculation at present what disposal of them may be attempted.

I would respectfully state that I have delayed the submission of this report of results of my investigation until to-day, pending anticipated developments of measures which I have adopted, hoping that I might be enabled thereby to communicate to you more satisfactory information regarding the matter.

Respectfully, yours,

GEO. B. CLARK,
Revenue Agent.

Hon. JOSEPH S. MILLER,
Commissioner of Internal Revenue, Washington, D. C.

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, SIXTH DISTRICT, MISSOURI,
Kansas City, September 28, 1888.

SIR: Referring to my telegram of the 26th instant, relative to the loss by robbery of internal-revenue stamps, value $4,946.58, at the office of my stamp deputy, J. G. Walker, at St. Joseph, Mo., I have the honor to herewith submit for your information the inclosed copies of reports and affidavits relative to the case.

I am convinced that no blame attaches to the deputies stationed at said office.

I have requested Revenue Agent Clark to proceed to St. Joseph and investigate the matter.

Please advise me how to report the deficiency on my monthly and quarterly reports, and what course to pursue to enable me to get the necessary relief from charge in my account for the stamps lost.

Very respectfully, yours,

CHAS. E. HASBROOK,
Collector.

Hon. COMMISSIONER INTERNAL REVENUE,
Washington, D. C.

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, SIXTH DISTRICT, MISSOURI,
St. Joseph, September 27, 1888.

DEAR SIR: It becomes my duty to report the loss to this office of the following stamps by theft:

	Value.
Tobacco stamps:	
6,000 two-ounce, 6,197 four-ounce, 2,245 eight-ounce, 2,818 sixteen-ounce.	$499.18
Cigar stamps:	
582 twenty-fives, 10,000 fifties	1,543.65
Beer stamps:	
325 barrel, 10,000 quarter-barrel, 630 eighth-barrel	2,903.75
Total face value	4,946.58

under the following circumstances:

The stamps on hand were placed in a large wooden box, used for that purpose by Deputy Stiles, at the close of business, on Tuesday afternoon, September 25, 1888, and the office closed and locked. Upon entering my office at 7.30 o'clock Wednesday morning I found the door unlocked and partly open, and upon investigation with Deputy Stiles I found the above stamps had been taken from the box and removed from the office by some party unknown to me.

Respectfully,

JAMES G. WALKER,
Deputy Collector.

CHAS. E. HASBROOK, Esq.,
Collector Internal Revenue, Kansas City, Mo.

STATE OF MISSOURI, *County of Buchanan, ss:*

J. G. Walker, being duly sworn according to law, deposes and says he is deputy collector of internal revenue for Charles E. Hasbrook, collector for the sixth collection district of the State of Missouri; that after an absence of two days, officially canvassing his division, upon entering his office on Wednesday morning about 7.30 o'clock he found the door of his office unlocked and partly open, and upon investigation with Deputy Stiles he found the stamps of the kind, denomination, and value mentioned in the attached report had been stolen from the box, in which they had been usually kept, by some unknown party or parties wholly unknown to him, and that he had used all care and diligence at his command for the safety of stamps in his charge, and since the theft he had used all the means in his power for the apprehension of the thief and recovery of the stamps.

JAMES G. WALKER,
Deputy Collector.

Subscribed and sworn to before me, a notary public, this 27th day of September, 1888. My term will expire March 14, 1891.

[SEAL.]

ANDREW J. SMITH,
Notary Public, Buchanan County, Mo.

	Value.
Tobacco stamps: Two-ounce, 6,000; four-ounce, 6,197; eight-ounce, 2,245; sixteen-ounce, 2,818	$499.18
Cigar stamps: Twenty-fives, 582; fifties, 10,000	1,543.65
Beer stamps: Barrel, 325; quarter-barrel, 10,000; eighth-barrel, 630	2,903.75
Total	4,946.58

STATE OF MISSOURI, *County of Buchanan, ss:*

I, Lewis O. Stiles, deputy collector for Charles E. Hasbrook, collector of internal revenue for the sixth collection district of Missouri, do solemnly swear that at the close of business about 5 o'clock p. m., on Tuesday, September 25, 1888, I carefully placed all the stamps on hand in the box in which they are kept, and I securely locked the office, and did not return again that evening. I came to the office the next morning at about 7.30 o'clock, and upon investigation with Deputy Collector Walker found that a large amount had been stolen of the kind and value exactly as stated in the report hereto annexed. That the person or persons who took these stamps is wholly unknown to me. That previous to the stealing of these stamps I had used all the usual care and diligence for the protection and safety of the same.

L. O. STILES,
Deputy Collector.

Subscribed and sworn to before me, a notary public, this 27th day of September, 1888. My term of office will expire March 14, 1891.

[SEAL.]

ANDREW J. SMITH,
Notary Public, Buchanan County, Mo.

	Value.
Tobacco stamps: Two-ounce, 6,000; four-ounce, 6,197; eight-ounce, 2,245; sixteen-ounce, 2,818	$499.18
Cigar stamps: Twenty-fives, 582; fifties, 10,000	1,543.65
Beer stamps: Barrel, 320; quarter-barrel, 10,000; eighth-barrel, 630	2,903.75
Total	4,946.58

[Inclosure.]

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, SIXTH DISTRICT, MISSOURI,
Kansas City, June 20, 1889.

DEAR SIR: Now that a new collector has been appointed it will be necessary for you to see your bondsmen at once, and arrange for the adjustment of your matter by July 1, 1889. I find it impossible for me to carry the shortage on the books after leaving the office. The money will have to be provided.

Please consult your bondsmen and have the funds in readiness.

Respectfully,

CHAS. E. HASBROOK,
Collector.

JAS. G. WALKER,
Deputy Collector, St. Joseph, Mo.

[Inclosure 2.]

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, SIXTH DISTRICT, MISSOURI,
Kansas City, July 9, 1889.

DEAR SIR: The receipt for special deposits on account of stamps stolen is at hand. Please accept my thanks for your prompt remittance and for the faithful administration of the affairs of your office during the past four years.

Very truly, yours,

CHAS. E. HASBROOK,
Collector.

Mr. JAMES G. WALKER,
Deputy Collector, St. Joseph, Mo.

[Inclosure 3.]

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, SIXTH DISTRICT, MISSOURI,
Kansas City, April 15, 1889.

SIR: In reply to your letter of late date in relation to the loss of stamps, stolen from your office, and asking advice as to the proper entries to make on your records, when the amount due is received from "your bondsmen, etc., you are informed that you will treat the same on all your forms as sales of beer stamps, thereby taking credit for the 7½ per cent. discount upon the amount sold customary."

Respectfully,

CHAS. E. HASBROOK,
Collector.

JAS. G. WALKER,
Deputy Collector, St. Joseph, Mo.

[Inclosure 4.]

[Original.] The depositor will forward this, by the first mail, to the Secretary of the Treasury.

THE NATIONAL BANK OF ST. JOSEPH,
No. 765. *St. Joseph, Mo., July 8th,* 1889.

I certify that Chas. D. Hasbrook, collector internal revenue, 6th district of Mo., per J. G. Walker deputy, has this day deposited to the credit of the Treasurer of the United States forty-seven hundred twenty-eight and $\frac{80}{100}$ dollars, on account of stamps stolen from Deputy Collector Walker's office, Sept. 25th, 1888, for which I have signed triplicate receipts.

GEO. B. HULL,
Cashier.

$4,728.80.
[Stamped across the face: Duplicate.]

[Duplicate.] The Depositor will send this, by the first mail, to the Commissioner of Patents, if the deposit is on account of patent fees; to the Commissioner of internal revenue, if on account of internal revenue; to the Treasurer U. S., if on account of semi-annual duty; to the Commissioner of the General Land Office, is on account of surveys of public lands.

THE NATIONAL BANK OF ST. JOSEPH,
No. 765. *St. Joseph, Mo., July 8th,* 1889.

I certify that Chas. E. Hasbrook, collector internal revenue, 6th district of Mo., per J. G. Walker deputy, has this day deposited to the credit of the Treasurer of the United States forty-seven hundred twenty-eight and $\frac{80}{100}$ dollars, on account of stamps stolen from Deputy Collector Walker's office Sept. 25th, 1888, for which I have signed triplicate receipts.

GEO. B. HULL,
Cashier.

$4,728.80.
[Stamped across the face: Duplicate.]

[Triplicate]. The depositor will retain this for his own use and security.

THE NATIONAL BANK OF ST. JOSEPH,
No. 765. *St. Joseph, Mo., July 8th,* 1889.

I certify that Chas. E. Hasbrook, collector internal revenue, 6th districtof Mo., per J. G. Walker deputy, has this day deposited to the credit of the Treasurer of the United States, forty-seven hundred twenty-eight and $\frac{80}{100}$ dollars on account of stamps stolen from Deputy Collector Walker's office Sept. 25th, 1888, for which I have signed triplicate receipts.

GEO. B. HULL.
Cashier.

$4,728.80.
[Stamped across the face: Duplicate.]

[Inclosure 5.]

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, August 9th, 1889.

SIR: Your letter of the 5th instant is received, stating that you had accounted to the Government for the value of the stamps alleged to have been stolen in September, 1888, amounting to $4,728.80, and you ask if there is not some law or regulation by which you can be re-imbursed for this loss.

In reply, you are informed that there is no provision of law authorizing this Department to re-imburse officers for such losses, but their only relief is through a special act of Congress.

The stamps in question were charged upon the books of this office to Collector Hasbrook, who was responsible to the Government for the same, and appears to have accounted for them by the payment of cash; any claim for Congressional relief, therefore, would need to be made by him.

Respectfully,

JOHN W. MASON,
Commissioner.

JAS. G. WALKER, Esq.,
Deputy Collector, St. Joseph, Mo.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 62.

WILLIAM F. YOUNG.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MANSUR, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1535.]

The Committee on Claims, to whom was referred the bill (H. R. 1535) for the relief of William F. Young, have considered the same and report that it was recommended favorably from this committee in the Fifty-first Congress, first session (Report No. 1787), and for the facts and reasons therein appearing, your committee readopt the same and recommend the passage of the bill.

[House Report No. 1787, Fifty-first Congress, first session.]

The Committee on Claims have considered House bill 7335, for the relief of William F. Young, and recommend its passage.

It appears that claimant was deputy collector of customs at Presidio del Norte, on the Rio Grande, a distance of some 200 miles from El Paso, Tex., where the office of the collector of customs is situated. It seems that he transmitted to the collector the sum of $94.75 at the hands of one Ignatius Goodman, who was robbed of the money en route to El Paso. The attached correspondence and affidavits will further explain the facts and circumstances under which this claim arises.

EL PASO, TEX., *February 10, 1890.*

DEAR SIR: On being appointed deputy collector of customs at Presidio del Norte I was directed by Joseph Magoffin, collector of customs, to forward receipts, when they amounted to $50, to El Paso, Tex., by a responsible party. I did so in obedience to these directions and was robbed of $94.75. I had to refund this amount to the Government. As this resulted from no carelessness or neglect of duty on my part, but in obedience to instructions, will you kindly have a bill passed for my relief?

Very truly, yours,

WM. F. YOUNG.

Hon. S. W. T. LANHAM,
Member of Congress, Washington, D. C.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., July 26, 1889.

SIR: I have received your letter of the 18th instant reporting the robbery of $94.75 from William F. Young, deputy collector of customs at Presidio, Tex., and recommending that he be reimbursed by the Department.

In reply you are informed that there is no appropriation available from which to

reimburse the deputy collector. The deputy should apply for relief in the matter to Congress. The affidavits inclosed in your letter are herewith returned.

Respectfully, yours,

GEO. S. BATCHELLER,
Assistant Secretary.

COLLECTOR OF CUSTOMS,
El Paso, Tex.

STATE OF TEXAS, *County of Presidio:*

Personally appeared before R. C. Daly, notary public in and for the county of Presido, Tex., Mr. William F. Young, deputy collector of customs at the port of Presidio del Norte, Tex., to me well known, and on oath says: "I had in my possession a sum of money, amounting to $94.75, belonging to the United States Government for duties collected at the said port, and it being my duty to have the money in the hands of the collector of customs of El Paso, Tex., by the end of the month, and there being no express company here to carry the money safely to El Paso, I handed the money to Mr. Ignats Goodman for him to deliver to the collector of customs at El Paso, Tex., as the said Ignats Goodman was going to El Paso. The money was delivered in a sealed parcel on the 21st day of June, 1889. On the 22d day of June, 1889, I received word from Mr. Ignats Kleinman, of the house of J. Goodman & Co., that Mr. Ignats Goodman had been robbed the night before of all the money he took with him, including the $94.75 I had sent, stating the robbery was committed by two men about 9 o'clock p. m., about 6 miles from here."

Signed at Presidio del Norte this 5th day of July, 1889.

WM. F. YOUNG,
Deputy Collector of Customs, Presidio, Tex.

STATE OF TEXAS, *County of Presidio:*

Signed with my name and seal of office this 5th day of July, 1889.

[SEAL.] RICH. C. DALY,
Notary Public.

STATE OF TEXAS, *County of Presidio:*

Personally appeared before R. C. Daly, notary public in and for the county of Presidio and State of Texas, one Manuel Galindo, who, being sworn, says: "That I was employed by Jorge Acosta, of Presidio, Tex., to take Mr. Ignats Goodman from Presidio, Tex., to Marfa, Tex., in the ambulance used by said Acosta to carry the mail between Presidio and Marfa, Tex.

"I left Presidio, Tex., on Friday, June 21, 1889, about sundown, taking with me Ignats Goodman as passenger. About 9 o'clock p. m., about 6 miles from Presidio, Tex., two men on horseback in the road ordered me to halt and for both of us to surrender, at the same time drawing their weapons on us. So soon as we had surrendered the two men made me turn from the road with the ambulance and go down a steep hill out of sight of the road, and there bound our hands and bandaged our eyes and then took the key of the trunk from Mr. Goodman and took from the trunk all the things that were in the trunk and threw them about the ambulance and on the ground, taking with them only the money which Mr. Goodman told them was in the trunk. On the morning of June 22 we drove to Shafter and there made known to the authorities what had taken place."

Signed at Presidio, Tex., July 5, 1889.

MANUEL (his x mark) GALINDO.

STATE OF TEXAS, *County of Presidio:*

Given under my hand and seal of office this 5th day of July, 1889.

[SEAL.] RICH. C. DALY,
Notary Public.

EL PASO, TEX., *July 6, 1889.*

Ignatius Goodman, being by me first duly sworn, deposes and says that on or about June 21, 1889, he was employed as manager of the store of Jos. Goodman, of Presidio, Tex.; that at this date he is employed as salesman by the same firm in the city of Juarez, Republic of Mexico; that on said June 21, 1889, at about 10 o'clock at night, he was traveling from Presidio aforesaid to Shafter, Tex., having on and about his person the following amounts of money, to wit: Two hundred and ten dollars ($210), the property of said Jos. Goodman, which sum affiant was transporting from said Goodman's store in Presidio to said Goodman's store in Juarez aforesaid; the sum of one hundred and fifty dollars ($150), Mexican money, the property of M. Colomo, of Opiraga, which sum affiant was transporting to the "administrador del

timbre" of Juarez aforesaid, and also a sack, said to contain $94.75, delivered to affiant by William F. Young, deputy collector of customs at Presidio, Tex., which was to be transported to Jos. Magoffin, the collector of customs at El Paso, Tex.; that while passing along the road from said Presidio to Shafter, at the said hour of night, affiant was, by force and arms beyond his power to resist or repel, robbed of the said sums of money and property by two Mexican highwaymen, who after the robbery fled, and no trace of the robbers has been found, and they are still at large, without hope of capture.

Deponent further says that he is an able-bodied man, twenty-four years of age.

IGNATIUS GOODMAN.

Subscribed and sworn to before me this 6th day of July, 1889.

[SEAL.] GRAHAM SMITH,

Notary Public in and for El Paso County, Tex.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 63.

ELLEN MAGUIRE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCKINNEY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 670.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 670) granting a mother's pension to Ellen Maguire, submit the following report:

An examination of the papers in the case shows that the claimant, Ellen Maguire, was the mother of Thomas Maguire, who was a private in Company B, First Regiment Massachusetts Cavalry, enlisted March 29, 1864, was discharged June 25, 1865, and died March 18, 1886, as claimed, from heart disease, resulting from malarial poisoning and rheumatism contracted in the service. He was never married and left no one dependent upon him but a mother.

His application for pension was rejected by the Department for the reason that the disease of which the soldier died was not due to his army service. On this question there seems to be some room for doubt, and the committee, under all the circumstances, are disposed to give the claimant the benefit of the doubt.

The soldier appears to have been the only support of claimant up to the time of his death. Since his death she has earned her scanty living by nursing, scrubbing, and other work such as she can do, and is now supported in part by charity, being wholly without property or means of support.

Your committee therefore submit a favorable report and recommend the passage of the bill with the following amendment:

Amend by inserting after the words "pension roll" the words "at twelve dollars per month."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 64.

KATE P. MITCHELL.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCKINNEY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1445.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1445) granting a daughter's pension to Kate P. Mitchell, submit the following report:

Kate P. Mitchell is the daughter of Stephen Mitchell, who enlisted October 3, 1861, in the Fifth Battery Maine Volunteers, and served as a farrier until mustered out April 5, 1865. The soldier was pensioned at $8 per month on account of an injury to the left shoulder, and it appears that he died September 29, 1888. No claim for pension on account of a widow has been filed, and it is a fact that no widow survived.

The daughter for whose benefit this bill was introduced is more than 21 years of age, and was over 16 years of age at the death of the soldier, and hence not entitled to a pension under the general law. It is shown by the sworn statement of Dr. Sanford Hanscom, of East Somerville, Mass., that this daughter has suffered for more than twelve years from chronic articular rheumatism; that she is now helpless, and has not been able to stand on her feet for eight or ten years, owing to the condition of her knees, and it is the opinion of the physician that she will never sufficiently recover to stand on her feet or in any way help herself. It is also stated that she is without means of support, and dependent upon charity.

Your committee returns the bill with the recommendation that it do pass, after being amended as follows: By inserting the word "dependent" before the word "daughter" in line 5.

EAST SOMERVILLE, MASS., *July 20, 1891.*

To whom it may concern:

This is to certify that I have known Miss Kate P. Mitchell about twelve years, and have been her physician nearly all this time; that she has suffered with chronic articular rheumatism for a longer time than I have known her; that she is now confined to her chair and helpless, and has not been able to stand on her feet for eight or ten years owing to the condition of her knees, and it is my opinion that she can never sufficiently recover to stand on her feet or in any way help herself.

SANFORD HANSCOM, M. D.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex, ss.:*

SOMERVILLE, *August 1, 1891.*

There personally appeared the aforesaid Sanford Hanscomb, M. D., to me known, and made oath that the foregoing statement by him is true, before me.

F. DE WITT LAPHAM,
Justice of the Peace.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 65.

ELIZABETH KELLY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. VAN HORN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2433.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2433) granting a pension to Elizabeth Kelly, submit the following report:

The claimant is the mother of Thomas Kelly, late a sergeant, Company G, Thirty-third New York Infantry, who enlisted May 22, 1861, and was discharged August 20, 1861, by reason of disability from disease of heart, and of Patrick Kelly of Company K, Fifty-second Ohio Infantry, who enlisted July 9, 1862, and was discharged January 26, 1865, by reason of amputation of right leg. Thomas died in the Albany Hospital soon after his return from the war, having arrived at his home ill. Patrick lost a leg from the result of a gunshot wound received by accident while on guard duty.

The claimant was not able to prove to the satisfaction of the Commissioner of Pensions that either son died from army service, but there is strong presumptive evidence that both sons did. The mother is very old, is unable to work, and is supported by charity.

Your committee, believing it to be a case of exceptional distress, recommend that the bill do pass, amended, however, by inserting in line 6, after the word "infantry," the words "and of Patrick Kelly, deceased, of Company K, Fifty-second Ohio Volunteers."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 66.

BRIDGET MALOY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. VAN HORN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2436.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2436) granting a pension to Bridget Maloy, respectfully report:

The claimant is the widow of Arthur Maloy, late of Company E, Forty-third Regiment New York Infantry Volunteers. The soldier was mustered into the regiment named and served from August 15, 1861, to February 24, 1864, when he died at general hospital, Washington. His widow was refused a pension under the old law on the ground that his illness was caused by intemperance while returning from a furlough and not by army service; and that it can not be granted under the new law because he died in the service. The widow is destitute, very old, and can not live long.

Your committee recommend that the bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 67.

WILLIAM BUSHBY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submi ed the following

REPORT:

[To accompany H. R. 1713.]

The Committee on War Claims, to whom was referred the bill (H. R. 1713) for the relief of William Bushby, submit the following report:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 271, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2086) for the relief of William Bushby, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and recommend that the bill do pass.

[House Report No. 979, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the claim of William Bushby, report as follows:

The Committee on War Claims of the Forty-eighth Congress, not being fully and clearly advised of all the facts in this case, referred the same to the Court of Claims for a finding of facts, under the provisions of the Bowman act.

This claim has been returned to the committee with a finding of facts.

Your committee report herewith a bill for the relief of William Bushby, and recommend its passage, and ask that the miscellaneous document be printed as a part of this report.

[Court of Claims. Congressional Case No. 171. William Bushby *vs.* The United States.]

FINDINGS OF FACT.

At a Court of Claims held in the city of Washington on the 20th day of February, A. D. 1888, the court filed the following findings of fact, to wit:

The claim or matter in the above-entitled case was transmitted to the court by the Committee on War Claims of the House of Representatives on the 15th day of December, 1884.

Edwin B. Hay, esq., appeared for claimant, and the Attorney-General, by Felix Brannigan, his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on the 6th day of February, 1888, the court upon the evidence, and after considering the briefs and arguments of counsel on both sides, finds the facts to be as follows:

I.

Samuel N. Garwood, having been previously elected sheriff of Alexandria County, Va., was qualified January 1, 1863.

By virtue of his office, under the laws of Virginia, the sheriff took charge of the jail and its prisoners: but at this time it was under the control of a military guard and used for both military and civil prisoners.

II.

March 31, 1863, the sheriff, after consultation with Brig. Gen. John P. Slough, who was then in command as military governor at Alexandria, appointed the claimant jailer. On the same day Gen. Slough issued the following order:

HEADQUARTERS MILITARY GOVERNOR,
Alexandria, Va., March 31, 1863.

OFFICER COMMANDING JAIL GUARD:

The sheriff has appointed William Bushby jailer. You will recognize him as such.

JNO. P. SLOUGH,
Brig. Gen., Military Governor, Alexandria, Va.

This order was sent to the "commander of the guard" through Lieut. Col. H. H. Wells, who was at that time provost marshal of Alexandria.

The next day, April 1, 1863, the claimant entered upon his duties as jailer.

III.

Thereafter, in a consultation between Gen. Slough, Provost Marshal Wells, the sheriff, and the claimant, it was understood or agreed that the claimant should do the cooking for the military prisoners, and for this service and the use of the jail for the purpose he should receive 5 cents a day for each prisoner.

In pursuance of this understanding, the following order was issued:

APRIL 13, 1863.

LIEUTENANT COMMANDING JAIL:

You will allow William Bushby, a jailer, to occupy the jail for the care of prisoners committed by the civil authorities as follows: The jailer will have the care of all civil prisoners; he will furnish all cooks that are required, and cook the food for all prisoners, military as well as civil, and do all policing.

The guard under the command of the lieutenant will distribute the food, and the lieutenant will have charge of the rations, seeing that no more is used than is required by the military prisoners, and that all over is carefully saved. The civil authorities will provide rations for their own prisoners. The military authorities will allow 5 cents per day to the jailer for the use of the prison, cooking rations, etc.

H. H. WELLS,
Lieutenant-Colonel and Provost-Marshal.

Thereupon the claimant began this service. He kept an account of the number of military prisoners, which account, being verified by the "commander of the guard," was allowed and paid at the end of each month until August 1, 1864, at the rate of 5 cents a day for each prisoner.

For eight months, beginning August 1, 1864, and ending April 1, 1865, he was allowed and paid $100 a month.

For the four following months, ending August 1, 1865, at which time his services ceased, he was allowed and paid at the rate of $50 a month.

IV.

The reduction in the amount allowed and paid was made, according to the claimant's testimony, in consequence of Gen. Slough being relieved from duty as military governor and Lieut. Col. Wells taking his place; for what reason does not appear. The claimant did not assent to the reduction.

V.

If, under these circumstances, the claimant was entitled to demand compensation after August 1, 1864, at the same rate as before that date, instead of by the month as allowed and paid, the Government would still owe him, according to his account of the number of prisoners, verified as aforesaid, $1,728.85.

VI.

The jail for which the claimant demands rent belonged to the county of Alexandria, and the same was seized by the U. S. Army and used for military purposes.

Of this class of claims this court is forbidden to take jurisdiction by the third section of the Bowman act, and therefore this part of the claim is dismissed without further examination.

BY THE COURT.

Filed February 20, 1888.
A true copy.
Test, this 2d day of March, A. D. 1888.
[SEAL.]

JOHN RANDOLPH.
Asst. Clerk, Ct. of Claims.

[In the Court of Claims. No. 171. Congressional claim. Wm. Bushby *vs.* The United States.]

Your petitioner respectfully represents:

First. That he is a citizen of the United States, and a resident of the District of Columbia, and files this claim in his own behalf.

Second. That on March 3, 1863, he was appointed jailer at Alexandria, Va., by order of John P. Slough, brigadier-general and military governor at Alexandria, Va., which order is filed herewith, and prayed to be taken as part hereof.

Third. That he assumed charge immediately and entered upon the duties of the position. On April 13, 1863, he entered in a contract with the United States Government, through its representative, H. H. Wells, lieutenant-colonel, at Alexandria, Va., for an allowance of 5 cents per diem for the use of prison, cooking rations, etc., for each military prisoner. (A copy filed herewith.)

Fourth. That he performed faithfully the requirements of the contract from April 1, 1863, to July 31, 1865, for the total number of one hundred thousand two hundred and seventy-six prisoners, on an average of one hundred and nineteen per day, at 5 cents, making a total amount due of $5,013.80, of which he received on account $3,274.95, leaving a balance due of $1,738.85, of which he has never received one cent, nor has it ever been paid or tendered him, or to anyone for him. A bill of particulars or full statement is filed herewith and prayed to be taken as a part of this petition.

Fifth. That this claim is for $1,738.85, it being the amount due and unpaid.

Sixth. That this claim has been before Congress for a number of sessions, and in the Forty-fourth Congress received a favorable report from the Committee on War Claims, but failure in being reached upon the calendar has prevented any action upon it in the House of Representatives.

Seventh. That it is now referred to the Court of Claims under the act of March 3, 1883.

WILLIAM BUSHBY.

CITY OF WASHINGTON, *District of Columbia, ss:*

William Bushby, being duly sworn, deposes and says that he is the person described in and who signed the foregoing petition; that no assignment or transfer of said claim therein mentioned, or any part thereof, or any interest therein, has ever been made; that he is justly entitled to the amount claimed from the United States after allowing all just credits and offsets, and that he believes the facts stated in said petition are true.

WILLIAM BUSHBY.

Subscribed and sworn to before me this 22d day of January, A. D. 1885.

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

Petition filed January 22, 1885.

EDWIN B. HAY,
Plaintiff's Attorney.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 70.

OWNERS OF BRIG ABBY ELLEN.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1719.]

The Committee on War Claims, to whom was referred the bill (H. R. 1719) for the relief of the owners of the brig *Abby Ellen*, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 2586, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2282) for the relief of the owners of the brig *Abby Ellen*, report as follows:

The facts in this case as set forth in the report of the Third Auditor of the Treasury to the Second Comptroller of the Treasury, under date of January 23, 1889, are as follows: The owners present a bill of lading which shows that on the 24th of March, 1865, Capt. Henry Bowman, assistant quartermaster, shipped on board the brig *Abby Ellen* 406 tons of anthracite coal at Philadelphia, to be delivered at Port Royal, S. C., to Lieut. S. T. Gregory, acting assistant quartermaster, or to his assigns.

The vessel arrived at Hilton Head, S. C., on the 5th of April, 1865, and was immediately ordered by Capt. Kelley, assistant quartermaster, to proceed to Charleston, S. C., and report to Capt. John H. Moore, assistant quartermaster.

A Government pilot was placed on board of the brig with orders to proceed to Charleston, and against the protest of the master she sailed for that port. While the vessel was under the control of the Government pilot, beating out of the harbor of Hilton Head against a head wind, the vessel missed her stays in tacking, and being near the bar an anchor was thrown out to prevent her from striking the bottom. The current being very strong, the chain parted, and a second anchor was let go, but not soon enough to keep the brig off the bar. She struck heavily and remained pounding on the bottom almost half an hour, when she was towed off by the steamer *Massachusetts* and taken to Beaufort to discharge cargo. She was discharged on April 22, 1865, and taken to Philadelphia in ballast, and from that port to Belfast, Me., for repairs.

It is disclosed by the evidence that the new voyage from Hilton Head to Charleston, during which the disaster occurred, was entered upon against the will and protest of the master and because he deemed it useless to dispute a military order. Upon this view the Third Auditor, in his report above referred to, says:

"The action of the quartermaster at Port Royal constituted an impressment of the vessel, and the marine risk which had been previously on the owners of the brig was transferred to the Government, and the repairs which became necessary as the result of the disaster became a charge against the United States."

The claim was rejected by the Third Auditor on the ground of want of jurisdiction,

citing the case of the United States *vs.* Kimball, which determined that the Court of Claims would not have jurisdiction of a claim for these damages, and holding that the accounting officers have none, the case being *sui generis* and an unfortunate one for the claimant. He says, however: "I can not conceive of a more obvious claim for unliquidated damages."

The Second Comptroller, in concurring with the Third Auditor rejecting the claim for want of jurisdiction, in his opinion dated March 23, 1889, says:

"It may well be argued that property injured or partially destroyed, if the latter term be admissible, should be paid for as much as property entirely annihilated. Equitably there can be no difference. The loss has fallen upon the owner, while the property was taken out of his hands and carried into the service of the Government for either permanent or temporary use. But the act of March 3, 1849, does not give the slightest justification for holding that anything except a complete loss, or destruction, or abandonment, was contemplated. For instance, the second provision in the section holds that "any person who has lost, or shall lose, or has had, or shall have, destroyed, by unavoidable accident, any horse, mule, ox, wagon, cart, boat, sleigh, or harness while such property was in the service," shall be reimbursed. It is hard to imagine any language which could distinctly exclude the idea of recompense for partial destruction than does this sentence.

"Whatever the merits of such claims may be they are not, in the absence of further legislation, within the jurisdiction of the accounting officers."

It appears, therefore, if the vessel had been wholly destroyed the accounting officers would have had jurisdiction to pay the owners. But the loss being only partial, the owners having partly saved her, there is no existing law under which they can be compensated for the partial destruction.

Clearly the owners should be paid in full for the loss to them, occurring while the vessel was under impressment.

The amount, as stated in the bill, is fully proven, to wit:

Cash paid for copper	$1,821.00
Cash paid for putting on copper and removing old copper	227.38
New rudder and shoe on keel	811.00
One new anchor and chain	304.25
Total	3,163.63

The claim was filed in the office of the Quartermaster-General on or about February 12, 1866; it was referred by the Quartermaster-General to the Third Auditor of the Treasury for examination and action June 7, 1866. No action was had upon it by the accounting officers from June 7, 1866, until January 23, 1889, when it was rejected as herein set forth for want of jurisdiction, concurred in by the Second Comptroller March 23, 1889.

The committee is of the opinion that the claim is just and should equitably have been paid when presented, and therefore report the bill back without amendment and recommend that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 71.

JOHN A. LYNCH.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2193.]

The Committee on War Claims, to whom was referred the bill (H. R. 2193) for the relief of John A. Lynch, submit the following report:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 1606, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 9199) for the relief of John A. Lynch, have considered the same and report as follows:

The claim covered by this bill was referred to the Court of Claims by resolution of the Senate for investigation and report, under the provisions of the acts of March 3, 1883, and March 3, 1887.

Said court has reported its findings of fact to Congress, showing that the claimant was entitled to the sum of $2,621.49 for his services, upon which he had been paid the sum of $125, leaving due him the sum of $2,496.49.

The facts are all clearly set forth in the findings of the court, and the same are approved by your committee.

Your committee, therefore, recommend the passage of the bill, with an amendment by striking out the words "six hundred and twenty-one," in the seventh line, and inserting in the place thereof the words "four hundred and ninety-six," and ask that Senate Mis. Doc. No. 127 be printed as a part of the report.

[Senate Mis. Doc. No. 127, Fifty-first Congress, first session.]

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, April 10, 1890.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings of the Court of Claims filed April 7, 1890, in the aforesaid cause, which case was referred to this court by the Committee on Military Affairs of the Senate of the United States, under the act of March 3, 1883.

I am, very respectfully yours, etc.,

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

The PRESIDENT OF THE SENATE.

[Court of Claims. Congressional case No. 4664. John A. Lynch *vs.* The United States.]

At a Court of Claims held in the city of Washington on the 7th day of April A. D. 1890, the court filed the following statement of case and findings of fact, to wit:

STATEMENT OF CASE.

The claim in the above-entitled case was transmitted to the court by the Committee on Military Affairs, United States Senate, on the 8th day of June, 1888. Luther H. Pike, esq., appeared for claimant, and the Attorney-General, by Assistant Attorney-General John B. Cotton, his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case was brought to a hearing on its merits on the 21st day of January, 1890.

I.

At the outbreak of the rebellion, in the year A. D. 1861, the claimant, John A. Lynch, was a citizen of the United States, a resident of the city of Cincinnati, in the State of Ohio, and by profession a lawyer.

In 1861 John C. Frémont, a major-general in the Army of the United States, was assigned to the command of the Department of the West, with headquarters at St. Louis, in the State of Missouri, and was clothed with extraordinary power and authority for recruiting, organizing, and equipping troops for his command in and outside the limits of his department, and for selecting and appointing, and directing the selection and appointment, of such officers and agents as he might deem necessary to assist him in the due execution of the powers he was so clothed with.

II.

Gen. Frémont appointed Richard M. Corwine an officer under him, to wit, judge advocate with the rank of major, and sent him to Cincinnati, in the State of Ohio, with directions and authority to there recruit, organize, and equip troops for his command, and to arrange their transportation to his department.

The said R. M. Corwine, as part of his arrangements for recruiting, organizing, and equipping troops for and transporting them to General Frémont's command, induced the claimant to assist him therein, and appointed claimant nominally to the rank of captain, assistant quartermaster, with assurance that upon such appointment he would be duly commissioned the same in the Army of the United States.

III.

The claimant, relying upon this assurance and acting under that appointment from the said Corwine, gave his entire time for a period of eight months in the years A. D. 1861 and 1862 in assisting said Corwine. From the latter part of July, 1861, until on or about the 6th of September of that year he acted both as assistant quartermaster and commissary of subsistence, but from the 6th of September, 1861, to on or about the 31st day of March, A. D. 1862, he acted only as assistant quartermaster, and all the services he so rendered were arduous and valuable to the United States.

The claimant has never been paid anything for the services he so rendered or on account of the expenses he incurred necessarily whilst rendering them and paid out of his own means, such expenses being for rooms, light and fuel, and attendance thereon, and for clerical assistance, except a sum of $125, and for transportation.

IV.

The claimant was on the 26th of November, A. D. 1862, commissioned regularly a captain and assistant quartermaster in the U. S. Army, but was not given rank to cover the service he had rendered antecedently. As such regularly commissioned officer he served faithfully and efficiently until he was discharged honorably after the suppression of the rebellion, and his accounts, found correct, have been closed in the Treasury Department.

V.

The claimant, by reason of being in active service in the field, was ignorant of and therefore unable to avail himself of the benefit intended for others and himself who had assisted Gen. Frémont, by the act of Congress approved March 25, 1862, and by the act amendatory thereof and supplementary thereto. He was ignorant of the existence of the commission at St. Louis, in the State of Missouri, which, in pursuance of said acts of Congress, was created under and by General Orders of the War Department, No. 64, of 1863, as also of the rules promulgated by the General Orders of the War Department No. 120, of March 24, 1864, for the payment of claims for such services presented to said commission, and, being so ignorant, he presented no claim to said commission.

VI.

By law and the Army Regulations of 1861, paragraphs 963 and 974, and the Revised Army Regulations of the same year, paragraphs 1068 and 1081, in force from the 31st of July, A. D. 1861, to the 1st day of April, A. D. 1862, had claimant been a regularly commissioned captain, assistant quartermaster in the U. S. Army, and so stationed and rendering said services at Cincinnati, in the State of Ohio, during said period of time, his army allowances and commutations would have been, as certified to the court by the War Department—each item aggregated—as follows: For pay proper (eight months), $560; servant's pay, $103.83; servant's clothing, $20; subsistence, $364.50; forage for three horses, if in actual service, $192; quarters, $192; quarters' fuel, $119.16; office, $240; office fuel, $30, and by authority for payment for clerk hire contained in the general appropriation acts for the support of the Army he would have had for one clerk, at $100 per month, $800, making a total of $2,621.49. But the claimant by his petition in this court has sought to recover only $1,262.96 for the same services.

VII.

The claimant during the eight months he so rendered the services unpaid for did not actually own and keep in service three horses, but in lieu thereof hired horses and vehicles for his transportation which was made actually necessary by the distances apart of the different bodies of troops he had to give attention to and he had constantly to traverse; but the amount of such expenditures has not been shown to the satisfaction of the court.

VIII.

The claimant received $125 on account of clerk hire during said period of eight months' service, through said R. M. Corwine.

IX.

The claimant was loyal to the Government and cause of the United States throughout the war of the rebellion.

BY THE COURT.

Filed April 7, 1890.
A true copy.
Test, this 10th day of April, A. D. 1890.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 72.

WILLIAM D. MATTHEWS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 887.]

The Committee on War Claims, to whom was referred the bill (H. R. 887) for the relief of William D. Matthews, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 889, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 7242) for the relief of William D. Matthews, report as follows:

It appears from the records of the War Department that William D. Matthews recruited a company of 81 men from August 17, 1862, to November 25, 1862, for an organization known as the First Regiment Kansas Colored Volunteers. Eight companies were organized at about the same period, and performed military service in the field and in garrison, but no authority having then been given for the recruitment of colored troops in the State of Kansas, the companies, as organized, were not mustered into service.

In January, 1863, the First Regiment Kansas Colored Volunteers was organized and mustered into service, such men forming the original organization as remained being mustered in in the new organization. Thirty-seven of the men recruited by William D. Matthews appear on the rolls of the reorganized regiment. Four of them died prior to the reorganization. The men have been paid from the date of their respective enlistments, the officers from the date of the organization of the regiment, January 13, 1863. Matthews was not appointed or mustered into service as an officer of the regiment. Why he was not mustered in is not shown by the records of the War Department.

Your committee annex hereto a letter from J. M. Williams, late colonel First Kansas Colored Volunteers, marked A, and ask that it be printed as a part of this report:

A.

WASHINGTON, *March 6, 1890.*

Hon. O. B. THOMAS,
Chairman, Committee on War Claims:

SIR: I respectfully submit the following statement having reference to House bill No. 7242, now before your committee, viz:

On the 4th day of August, 1862, being then a captain in the Fifth Kansas Volunteers, I was ordered by the general commanding the Department of Kansas to report to Hon. J. H. Lane, commissioner of recruiting, for assignment to duty in organizing new regiments in the United States volunteer service. On reporting to said

Lane I was directed to recruit, organize, and equip a regiment of infantry, to be composed of persons of African descent.

Acting under these orders I established headquarters at Leavenworth City, Kans.; procured a supply of arms and equipments, clothing, and camp and garrison equipage, and subsistence stores sufficient to arm, clothe, equip, and subsist a regiment of infantry, and caused to be appointed a number of recruiting officers, with instructions to recruit and organize companies and parts of companies for said service, and among the recruiting officers so appointed was William D. Matthews, a colored man of recognized ability and influence, this appointment being made with the knowledge and approval of said Commissioner Lane and the general commanding the department, and also being made with the understanding that when the regiment was organized said William D. Matthews should be mustered into the United States service as an officer, provided he obtained a sufficient number of recruits to entitle him to that consideration under the recruiting regulations then in force in the United States volunteer service.

Said William D. Matthews applied himself diligently and faithfully to the duties assigned him, and within a very short period of time he had obtained a large number of recruits, much larger than was necessary to entitle him to be mustered as an officer under the regulations above referred to.

By reason of the failure of orders to the mustering officers the regimental organization was not completed until the 2d day of May, 1863, when it was mustered into the service as the First Kansas Colored Volunteers. On being mustered into the service the mustering officer refused to muster said William D. Matthews, assigning as a reason that he could not muster a person of African descent as an officer.

Consequently said William D. Matthews was left out of the organization and was deprived of any pay for his services for nine months' time, and no recompense for his expenses for that period, which must have amounted to a considerable sum.

During these nine months said Matthews performed full duty all the time, and is entitled to his full share of honor and credit in assisting in the completion of said regiment, and in my opinion should be paid for said services.

In view of the above-recited facts, as an act of long-delayed justice, I respectfully but urgently request your honorable committee to recommend that said William D. Matthews be paid an amount equal to the pay and allowances of a captain of infantry from the 4th day of August, 1862, to the 2d day of May, 1863.

Trusting that the above will receive your favorable consideration,

I am, very respectfully, your obedient servant,

J. M. WILLIAMS,
Late Colonel First Kansas Colored Volunteers and
Brevet Brigadier-General Volunteers.

P. S.—I desire to add that the muster and pay of Capt. W. D. Mathews, as above requested, will not, in my opinion, increase the number of officers serving with the regiment prior to muster in, so as to make the number of officers serving and paid in said regiment greater than the number allowed under the orders for the organization of regiments of volunteer infantry.

J. M. WILLIAMS,
Late Colonel First Kansas Colored Volunteers and
Brevet Brigadier-General Volunteers.

Also a letter from the same person showing the services of the regiment and the men so enlisted by claimant, which letter is marked B.

B.

WASHINGTON, D. C., *March 17, 1890.*

Hon. O. B. THOMAS,
Chairman Committee on War Claims:

SIR: I beg leave to submit the following statement in support of the claim of William D. Matthews, viz:

The First Kansas Colored Volunteers was organized in the month of May, 1863, at Fort Scott, Kans., and immediately took the field and participated in many engagements, in all of which it did service and performed duties honorable to itself and creditable to the flag it served under. In support of this statement I would respectfully refer you to the following statistics and records, viz:

In "Fox's Regimental Losses in Action," page 10, is given a list of about two hundred and twenty-five regiments who suffered the greatest per cent of loss in action during service. In this list the First Kansas Colored stands No. 21 from the top.

Same book, page 17, "Maximum of regimental losses. Killed in particular engagements—infantry—

Fifth New York, at Manassas	117
Fifteenth New Jersey, at Spottsylvania	116
Forty-ninth Pennsylvania, at Spottsylvania	109
First Kansas Colored Volunteers, at Poison Springs	111

In this list of several hundred regiments the First Kansas Colored Volunteers is omitted. Why is not apparent, as upon page 34 of the book the number is given 111, as above stated, although by the official report of the battalion commander, now in my possession, the loss is given at 117, the names of the officers and men killed accompanying the report. According to the record as given in the book the regiment would stand No. 3 from the head of the list, and according to said official reports it would stand on an equality with the head of the list.

Same book, paragraph 34, is given the percentage of killed in regiments in particular engagements.

	Battle.	Engaged.	Killed.	Per cent.
First Minnesota	Gettysburg	262	75	28
Fifteenth New Jersey	Spottsylvania	432	116	26
One hundred and forty-first Pennsylvania	Gettysburg	198	49	24
First Kansas Colored	Poison Springs	463	111	23
My official reports show		438	117	26.71

In the above list as given in the book the First Kansas Colored Volunteers would stand No. 4 from the top; according to the official reports made at the time it would stand No. 2 from the top.

Same book, page 521, is given the losses in action of colored troops:

First Kansas Colored	188
Fifth United States Colored Heavy Artillery	128
Eighth United States Colored Infantry	119
Fifty-fourth Massachusetts Colored Infantry	109
Fourth United States Colored Infantry	105

The above statistics are taken from official reports in the War Department, without reference to the period of service of the regiments referred to, and, in my judgment, are creditable to the First Kansas Colored Volunteers. If, however, you will recall the fact that this regiment was organized as a regiment on the 2d day of May, 1863, less than two years prior to the close of hostilities, and then compare the percentage of losses with the period of service of each regiment, you will find that the First Kansas Colored Volunteers will stand at the head of the list on all the tables.

Regimental losses in action are not always a true criterion by which to judge of the value of the services of a regiment in action and on general duty.

In order to show that I am justified in the belief that this regiment will not suffer by a strict scrutiny of its behavior under fire and on general duty, I take the liberty of referring you to the following quotations from the Rebellion Records, which only covers a period of eight months after its organization, and does not refer to the actions where it suffered its greatest losses, which will be referred to in volumes of said records to be published hereafter, viz:

Volume 22, part 1, page 448, report of General Blunt of engagement at Elk Creek, C. N., July 17, 1863:

"Much credit is due to all of them for their gallantry. The First Kansas Colored particularly distinguished itself; they fought like veterans, and preserved their line unbroken throughout the engagement. Their coolness and bravery I have never seen surpassed; they were in the hottest of the fight, and opposed to Texas troops twice their number, whom they completely routed. One Texas regiment (the Twentieth Cavalry) that fought against them went into the fight with 300 men and came out with only 60. It would be invidious to make particular mention of any where all did their duty so well."

Volume 22, part 2, page 692, extract from report of Gen. John McNiel, on assuming command of the District of the Frontier, Fort Smith, Ark., November 2, 1863:

"On Saturday I reviewed the First Arkansas Infantry Volunteers, First Colored Infantry Kansas Volunteers, and Rabbi's battery. The negro regiment is a triumph of drill and discipline, and reflects great honor on Col. Williams, in command. Few volunteer regiments that I have seen make a better appearance. I regard them as first-rate infantry."

The First Kansas Colored Volunteers was, by order of the War Department, in December, 1864, officially designated as the Seventy-ninth U. S. Colored Troops, and was afterwards known by that name.

As an officer in the United States volunteer service, I regard my connection and service with this regiment as in no manner discreditable, and I do not think the United States Government should hesitate in paying the officers and men who composed and organized this regiment their full allowance for services rendered, and among those who are entitled to such pay and allowances the applicant, William D. Matthews, is by no means the least deserving.

Very respectfully, your obedient servant,

J. M. WILLIAMS,
Late Colonel First Kansas Colored Volunteers,
and Brevet Brigadier-General of Volunteers.

Your committee, in view of the foregoing statement of facts, report herewith a substitute for the bill, giving the claimant the pay and emoluments of a captain of infantry from the 4th day of August, 1862, to the 2d day of May, 1863, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 73.

JAMES McCAMMON.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KRIBBS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4302.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4302) granting a pension to James McCammon, submit the following report:

James McCammon, the claimant in this bill, enlisted as a private in Company F, Sixty-second Regiment Pennsylvania Volunteers, August 1, 1861. At the battle of Fair Oaks, May 31, 1862, he was wounded in the left forearm and right breast and shoulder. Was sent to various hospitals, and discharged from the United States service on account of disability September 22, 1862. He was put on pension roll April 3, 1863, at the rate of $4 per month. He was dropped from the pension rolls by reason of reënlistment March 28, 1864, in Company B, Second Pennsylvania Heavy Artillery, and was discharged January 29, 1866, having lost the index finger of his left hand during his last service. He was afterward restored to the pension rolls at the rate of $4 per month from January 30, 1866. Afterwards the rate was increased at various times to $8, $10, $14, $24, and $30 per month, the latter increase being made February 3, 1886.

At various times since that date the claimant has applied for increase, but his claim was rejected for the reason that his disability did not reach that permanent disability making the rating the first grade, or $72 per month. His last application was in 1889, when the local examining board had given him a first-grade rating for permanent disability, requiring regular personal aid and attendance of another person. After several appeals the case was finally rejected May 19, 1891.

Claimant's last medical examination before the pension board took place October 2, 1889. It shows that claimant at that time had atrophy of muscles of right arm, anchylosis of shoulder joint, necrosis of upper half of humerus of right arm, and that there were three openings discharging, and over fifty pieces of bone had discharged during the preceding year alone; that his breast, shoulder, and back were covered with scars of former openings; that he could not dress his wounds or put on his clothes without the aid of a regular attendant from two to four times a day.

From an affidavit filed with your committee, showing medical examination on the 27th day of November, 1891, all the foregoing disabilities

are shown to exist in a still more aggravated form, and that the claimant's disability is permanent and equivalent to entire loss of arm, and that he is in danger of losing his life from blood poisoning from the extensive suppurating surface.

The writer of this report knows that the claimant has no other means of support than that derived from his present pension.

Your committee therefore return the bill and recommend that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 74.

JANE L. TAYLOR.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2583.]

The Committee on War Claims, to whom was referred the bill (H. R. 2583) for the relief of Mrs. Jane L. Taylor, submit the following report:

The bill authorizes the Quartermaster-General to examine the claim of Mrs. Jane L. Taylor, of Nashville, Tenn., for rails and lumber alleged to have been taken and used by the Army of the United States during the late war.

It is alleged that during the late war the Army of the United States took possession of the claimant's farm, situated in Davidson County, Tenn., and took therefrom large quantities of rails and lumber for the use of the Army.

It seems to your committee that an investigation by the Quartermaster-General, or under his direction, is a matter of necessity before intelligent action can be had upon this case.

Your committee report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 75.

PAYNE, JAMES & CO.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2582.]

The Committee on War Claims, to whom was referred the bill (H. R. 2582) for the relief of Payne, James & Co., respectfully report:

This claim has heretofore been considered by the committee on War Claims. In the Fiftieth Congress the committee reported favorably on the claim, recommending the payment to claimants of the sum of $85,504.67. In the Fifty-first Congress the committee again reported favorably, recommending the payment of $82,750.

Your committee now adopt the facts stated in said reports which are in substance as follows:

Prior to the Federal occupation of Nashville, Tenn., in February, 1862, Buckner H. Payne, John D. James, and Robert A. Barnes, doing business under the firm name of Payne, James & Co., were among the largest wholesale grocery merchants in Nashville. They occupied a three-story brick building with basement, 48 feet front by 300 feet deep, known as No. 4 Market street, filled with groceries and other goods of a perishable nature, valued at over $200,000.

On the 6th day of April, 1862 (Sunday), the buildings occupied by the ordnance stores of the Government broke down, and as it was raining and had been for several days, it was necessary to remove immediately the ordnance stores, valued at over $2,000,000, to preserve them from destruction, and the most suitable building to be found for that purpose was the one occupied by Payne, James & Co. On the evening of that day (April 6), Col. Stanley Matthews, of the Fifty-first Ohio Regiment, issued an order directing Payne, James & Co. to deliver to Lieut. Tannatt, of the ordnance department, possession of their storehouse by 7 o'clock the next morning.

In compliance with this order the goods were thrown out into the rain and mud, and as the stock was largely of perishable goods it was easy to be seen that the cost and loss amounted to several thousands of dollars. In August, 1862, the so-called "Driver Board," sitting at Nashville, awarded these claimants $3,750 for this loss and damage, which in the opinion of your committee is not more than one-half of the actual damage, but it is nevertheless accepted as final in making up this account.

The taking possession of the storehouse for the ordnance stores and the necessity for its immediate occupation, for the reasons stated above,

are also shown by the statement of Col. Stanley Matthews (late one of the justices of the Supreme Court), made on the 23d day of November, 1864.

When Payne, James & Co. were thus suddenly forced out of their store in the rain they procured storage for their goods from Lanier, Phillips & Co., at Nos. 39 and 41 Market street, but were deprived of the facilities for doing business. In order to resume business on the first of September, 1862, Payne, James & Co. purchased the stock of Lanier, Phillips & Co. and united their stores. They had gotten fairly under way again and were doing a larger business than ever when on April 15, 1863, Gen. Mitchell issued an order directing Capt. Thomas J. Cox, acting quartermaster, to take possession of these stores on the 20th of April, which was done, their goods being, however, allowed to remain in one of the stores until the 3d of August, 1863, when Gen. Granger dispossessed them entirely in order that the Government might use the property.

The attention of this officer having been called to the several removals of the large stock of goods of this firm, he suggested to them to take two stores then used by the Government, assuring them that he would not again order them to vacate these houses during his term of command. From the evidence it appears that this removal cost the firm $2,000, and it also appears that the houses offered them were very much out of repair and not in a condition to be used. The evidence shows that Payne, James & Co. reroofed the houses, made new floors, put in supports, added new doors, windows, and stairways a ta cost of about $2,000.

Hardly had these houses been repaired, the firm's goods moved into them, and the firm's business become well again under way, when, on February 16, 1864, the firm was informed from Gen. Grant that these buildings were required for immediate use of the subsistence department, and although Gen. Grant's attention was called to the fact that the Government officers had deliberately agreed that the firm should not be again dispossessed, the urgency of the case was so great that on February 19, 1864, Gen. Grant replied saying that the buildings were absolutely required by the subsistence department and they must be vacated. This last removal entirely destroyed the business of the firm and put an end to their business career. At this time the stock of goods on hand was very large, all the evidence going to show that its value was in the neighborhood of $1,000,000, of which a great proportion were perishable goods, which the firm was compelled to store in warehouses and other places beyond the range of grocery business.

Being thus dispossessed entirely of the storehouses they had occupied from time to time, and unable to obtain others suitable for their business, and knowing that their large stock of goods was rapidly depreciating, they made application on the 12th day of March, 1864, to C. A. Fuller, special agent of the Treasury Department, for permission to remove their goods to Huntsville, Ala., for sale, in order to save them from total loss. Their application was recommended by Gen. Granger, Gen. Rousseau, and Andrew Johnson, military governor, in the following statement:

This firm has been dispossessed a fourth time of their storeroom, and as there is no place where they can put their goods in this city, I recommend that they be permitted to take them to Huntsville, Ala., for sale. This application was denied by the special agent for the reason, as stated by him, that "trade is not allowed to any one at Huntsville, consequently it would be a violation of Treasury regulations to grant the request to the applicants."

The claimants still endeavored to find some place suitable for the sale of their goods. They made application to Gen. John F. Miller, then in command at Nashville, and recently a Senator in Congress. On the

8th day of August, 1864, Gen. Miller referred their request to Col. Donaldson, acting quartermaster, and said:

This firm has been removed four times by the quartermaster's department from their place of business and now have some $200,000 worth of goods stored in parish warehouse waiting for these rooms promised them as stated. The members of this firm are men of character and known loyalty, as appears from documents on file here, and they have at all times manifested so accommodating disposition toward the Government that their conduct merits some reward.

Gen. Miller further said:

The Government of the United States can not afford to withhold from this firm their place of business longer. This class of men are those who will receive damage for losses sustained in being dispossessed.

With this strong indorsement from the general in command the firm failed to obtain a house for the sale of their goods, and they were compelled to suffer heavy losses by the depreciation of some and total loss of others. The losses established by the evidence, resulting from the last removal, in February, 1864, including expenses of removal, extra clerk and labor hire, and the damage to and total loss of goods, amount to $75,252.

Some of the witnesses, who were familiar with the business of the firm, the amount and kind of goods they had on hand of a perishable nature, estimate their losses at a larger sum.

It is clear that there was an understanding between the firm and the military authorities, amounting to a contract, so far as the military authorities could bind the Government, that the Government would compensate them for their losses in being dispossessed of their houses and their business broken up. But aside from this, your committee are of the opinion that the circumstances under which they were dispossessed, being by the deliberate acts of the military officers, which resulted in great advantage and benefit to the Government, but in great injury and loss to its citizens, imposes upon the Government the duty of making compensation.

They were doing a large business and were in a condition to make large profits, but these were all sacrificed. As these losses were in the nature of prospective profits, no compensation is asked for them, and they have not been considered in the pending claim. It was enough for them to have made this heavy sacrifice for the advantage and benefit of the Government, but your committee would deem it an act of injustice and wrong to require them also to bear the actual losses they sustained and be the sole sufferers, while the interests of the whole nation were so greatly promoted by their sacrifice and ruin.

These men were of undoubted loyalty and were of great service to the Government, as is evidenced again and again by the expressions of such men as the late Justice Stanley Matthews and Gen. John F. Miller, late a Senator in Congress from the State of California.

Your committee, therefore, from the foregoing enumerated items of losses and expenses incurred, recommend the allowance of the same amount recommended by the committee in the Fifty-first Congress, and they report the bill back and recommend its passage with the following amendment:

In lines 5 and 6 strike out "eighty-five thousand five hundred and four dollars and sixty-seven cents" and insert in lieu thereof "eighty-two thousand seven hundred and fifty dollars."

Your committee attach hereto copies of papers on file in the case, and ask that they be printed as a part of this report.

HEADQUARTERS TWENTY-THIRD BRIGADE, IN CAMP,
November 23, 1864.

I certify that the facts stated within by Messrs. Payne, James & Co. as to my taking possession of their warehouse for the use of the Government as an ordnance depot under direction of Lieut. Tennant, are correct. The necessity for immediate possession arose from the fact that the building used for ordnance storehouse by Lieut. Tennant, the ordnance officer, had fallen down on Saturday night (I think), exposing a large amount of ammunition to destruction from the rain, unless immediately housed. I know nothing of the amount of the damages sustained by Messrs. Payne, James & Co.

STANLEY MATTHEWS,
Colonel Fifty-first Ohio Volunteers.

ORDERS.] OFFICE ASSISTANT QUARTERMASTER,
IN CHARGE OF QUARTERS, ETC.,
Nashville, Tenn., April 15, 1863.

Capt. Thomas J. Cox, assistant quartermaster, will take possession of and occupy the warehouse on Market street, between Church and Broad, now occupied by Messrs. Payne, James & Co.

Messrs. Payne, James & Co. will vacate the building by 12 o'clock m. on the 20th April, 1863.

By order of Brig. Gen. R. B. Mitchell, commanding post.

C. F. GARRETT,
Captain and Assistant Quartermaster

Messrs. PAYNE, JAMES & CO.,
Market street, Nashville.

HEADQUARTERS MILITARY DIVISION OF THE MISSISSIPPI,
Nashville, February 19, 1864.

These buildings being absolutely required by the Subsistence Department, must be vacated.

By order of Maj. Gen. U. S. Grant.

E. S. PARKER,
Acting Assistant Quartermaster.

Letter of Gen. John F. Miller.

HEADQUARTERS, POST NASHVILLE,
Nashville, Tenn., August 8, 1864.

Respectfully referred to Lieut. Col. J. L. Donaldson, sen. and sup. quartermaster with the information that under an understanding between the house of Payne, James & Co. and Gen. R. S. Granger these houses, or one of them, were to be delivered to that firm as soon as vacated by the Commissary Department. This firm has been removed four times by the Quartermaster's Department from their place of business, and now have some $200,000 worth of goods stored in Parrish's warehouse waiting for these rooms promised them as stated. The members of this firm are men of character and known loyalty, as appears from documents on file here, and they have at all times manifested so accommodating dispositions toward the Government that their conduct merits some reward. The Government of the United States can not afford to withhold from this firm their place of business longer.

This class of men are those who will receive damage for losses sustained in being dispossessed. I am informed that No. 33 and 35 Broad street would answer the purpose of Capt. Wainwright as well as these buildings. I desire Nos. 23 and 25 to be delivered up, if not absolutely required for purposes of storage. Some place less valuable or cheaper for the Government will do for an eating house for employés of Capt. Wainwright. Attention is invited to the inclosed papers to be returned.

JOHN F. MILLER,
Brigadier-General.

Affidavit of Gen. Robert S. Granger.

STATE OF VIRGINIA, *Fauquier County, to wit:*

Personally appeared before me on the 17th day of November, 1873, Gen. Robert S. Granger, an officer of the Army of the United States, and made oath that from about the 5th day of June, 1863, to the 15th day of May, 1864 he was in command of the military post at Nashville, Tenn. That he was acquainted with one or more of the members of the firm of Payne, James & Co., large wholesale grocery merchants of Nashville. That on or about the month of September, 1863, his attention was called by this firm to an order issued prior to that date requiring them to vacate the houses they then occupied; that upon urgent solicitation they had been permitted to remain in one of the houses until the month of September, when they were directed to vacate this by an order of Capt. Cox, A. Q. M.

Upon learning the frequent removals of the firm by command of various officers of the Army, and the great inconvenience and loss to which they had been subjected, he had an interview with Capt. Cox for the purpose of inducing him to accept another building then in possession of the Government. Capt. Cox objected to the proposed building, because of its remoteness from the one he was then occupying, and because it could not sustain the great weight that he was compelled to place within it, without considerable repairing, and insisted on the contiguous building then occupied by Payne, James & Co. That the affiant then suggested to the firm to accept two stores then used by the Government, and assured them that he would not again order them to vacate these houses during his term of command.

The houses were accordingly taken possession of by the firm, and continued to be so occupied until about the month of February, 1864, when an order was issued by Maj. Gen. U. S. Grant, directing the firm to vacate the aforesaid houses, and in addition to these houses, to the best of the affiant's recollection, the order embraced all of the houses on the street in that neighborhood suitable for Government purposes. The order of Maj. Gen. Grant was carried into effect, and these parties were compelled a fourth time to remove their goods. On this occasion affiant believes they could obtain no house suitable for their business. To save them from further unnecessary loss, and in some measure to repair the losses already sustained, affiant recommended that they be permitted to remove their goods to Huntsville, Ala., which recommendation was approved by Maj. Gen. Rousseau and Brig.-Gen. and Military Governor Andrew Johnson. That affiant has no means of estimating the actual losses of the firm, but it must have been considerable, on account of their repeated removals and the probable injury to their goods.

The above facts are correct and true, to the best of affiant's knowledge and belief.

[SEAL.] JNO. R. TURNER,

Notary Public for Fauquier County, Va.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 76.

ROBERT R. VANDIVER.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2074.]

The Committee on War Claims, to whom was referred the bill (H. R. 2074) for the relief of the legal representatives of Robert R. Vandiver, deceased, respectfully report:

This claim was presented to the Fifty-first Congress and a report was made in regard to it by the Committee on War Claims. As the examination by your committee has led them substantially to the same results as those arrived at by the committee of the Fifty-first Congress, they do not think it necessary to recapitulate the facts, but refer to that report and annex a copy for information.

Your committee recommend that the bill referred to them do pass.

[House Report No. 2685, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 8143) for the relief of the legal representatives of Robert R. Vandiver, report as follows:

That this is a claim for one horse furnished the Army of the United States during the late war. Claim stated at $150.

The taking of the property and the loyalty of the claimant is fully established.

Your committee report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 77.

ROBERT E. MORGAN.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2157.]

The Committee on War Claims, to whom was referred the bill (H. R. 2157) for the relief of Robert E. Morgan, respectfully reports:

This claim was presented to the Fifty-first Congress and a report was made in regard to it by the Committee on War Claims. As the examination by your committee has led them to substantially the same results as those arrived at by the committee of the Fifty-first Congress they do not think it necessary to recapitulate the facts, but refer to that report and annex a copy for information.

Your committee recommend that the bill referred to them do pass.

[House Report No. 2628, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 7747) for the relief of Robert E. Morgan, report as follows:

It appears, from the proof submitted, that in August, 1863, Gen. Tyler, of the U. S. Army, took from the claimant one horse of the value of $200.

The taking of the horse is fully established by competent witnesses. The loyalty of the claimant is also established by the officers then stationed in Maryland.

Your committee report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 78.

MRS. C. N. GRAVES.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3499.]

The Committee on War Claims, to whom was referred the bill (H. R. 3499) for the relief of Mrs. C. N. Graves, respectfully report:

This claim was presented to the Fifty-first Congress and a report was made in regard to it by the Committee on War Claims. As the examination by your committee has led them substantially to the same results as those arrived at by the committee of the Fifty-first Congress, they do not think it necessary to recapitulate the facts, but refer to that report and annex a copy for information.

Your committee recommend that the bill referred to them do pass.

[House Report No. 1470, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred H. R. No. 3089, for the relief of Mrs. C. N. Graves, widow of R. F. Graves, jr., having considered the same, report as follows:

Gen. Grant in 1865 prescribed the terms and conditions of surrender of the forces under Gen. Lee, and which were accepted, as follows:

APPOMATTOX COURT-HOUSE, *April 9, 1865.*

* * * * * * *

The officers to give their individual parole not to take arms against the Government of the United States until properly exchanged; and each company or regimental commander to sign a like parole for the men of their commands.

The arms. artillery, and public property to be parked and stacked, and turned over to the officers appointed by me to receive them. This will not embrace the side arms of the officers, nor their private horses or baggage.

This done, each officer and man will be allowed to return to their homes, not to be disturbed by United States authority so long as they observe their parole and the laws in force where they may reside.

Very respectfully,

U. S. GRANT,
Lieutenant-General.

Gen. R. E. LEE,
Commanding C. S. A.

Among those so surrendered was Lieut. R. F. Graves, who thereupon subscribed the oath of allegiance and received his parole. and repaired to his home in Prince George County, Va,, where it appears that he owned a large farm, improved by a substantial dwelling, two large granaries, and other outhouses, all in good order.

About May 5, 1865, a portion of Gen. Weitzel's corps of colored troops encamped on a part of Grave's farm, about half a mile distant from the improvements, and sepa-

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Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2157.]

The Committee on War Claims, to whom was referred the bill (H. R. 2157) for the relief of Robert E. Morgan, respectfully reports:

This claim was presented to the Fifty-first Congress and a report was made in regard to it by the Committee on War Claims. As the examination by your committee has led them to substantially the same results as those arrived at by the committee of the Fifty-first Congress they do not think it necessary to recapitulate the facts, but refer to that report and annex a copy for information.

Your committee recommend that the bill referred to them do pass.

[House Report No. 2628, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 7747) for the relief of Robert E. Morgan, report as follows:

It appears, from the proof submitted, that in August, 1863, Gen. Tyler, of the U. S. Army, took from the claimant one horse of the value of $200.

The taking of the horse is fully established by competent witnesses. The loyalty of the claimant is also established by the officers then stationed in Maryland.

Your committee report back the bill and recommend its passage.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 78.

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Your committee recommend that the bill referred to them do pass.

[House Report No. 1470, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred H. R. No. 3089, for the relief of Mrs. C. N. Graves, widow of R. F. Graves, jr., having considered the same, report as follows:

Gen. Grant in 1865 prescribed the terms and conditions of surrender of the forces under Gen. Lee, and which were accepted, as follows:

APPOMATTOX COURT-HOUSE, *April 9, 1865.*

* * * * * * *

The officers to give their individual parole not to take arms against the Government of the United States until properly exchanged; and each company or regi mental commander to sign a like parole for the men of their commands.

The arms. artillery, and public property to be parked and stacked, and turned over to the officers appointed by me to receive them. This will not embrace the side arms of the officers, nor their private horses or baggage.

This done, each officer and man will be allowed to return to their homes, not to be disturbed by United States authority so long as they observe their parole and the laws in force where they may reside.

Very respectfully,

U. S. GRANT,
Lieutenant-General.

Gen. R. E. LEE,
Commanding C. S. A.

Among those so surrendered was Lieut. R. F. Graves, who thereupon subscribed the oath of allegiance and received his parole. and repaired to his home in Prince George County, Va,, where it appears that he owned a large farm, improved by a substantial dwelling, two large granaries, and other outhouses, all in good order.

About May 5, 1865, a portion of Gen. Weitzel's corps of colored troops encamped on a part of Grave's farm, about half a mile distant from the improvements, and sepa-

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Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2157.]

The Committee on War Claims, to whom was referred the bill (H. R. 2157) for the relief of Robert E. Morgan, respectfully reports:

This claim was presented to the Fifty-first Congress and a report was made in regard to it by the Committee on War Claims. As the examination by your committee has led them to substantially the same results as those arrived at by the committee of the Fifty-first Congress they do not think it necessary to recapitulate the facts, but refer to that report and annex a copy for information.

Your committee recommend that the bill referred to them do pass.

[House Report No. 2628, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 7747) for the relief of Robert E. Morgan, report as follows:

It appears, from the proof submitted, that in August, 1863, Gen. Tyler, of the U. S. Army, took from the claimant one horse of the value of $200.

The taking of the horse is fully established by competent witnesses. The loyalty of the claimant is also established by the officers then stationed in Maryland.

Your committee report back the bill and recommend its passage.

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Gen. Grant in 1865 prescribed the terms and conditions of surrender of the forces under Gen. Lee, and which were accepted, as follows:

APPOMATTOX COURT-HOUSE, *April 9, 1865.*

* * * * * * *

The officers to give their individual parole not to take arms against the Government of the United States until properly exchanged; and each company or regi mental commander to sign a like parole for the men of their commands.

The arms. artillery, and public property to be parked and stacked, and turned over to the officers appointed by me to receive them. This will not embrace the side arms of the officers, nor their private horses or baggage.

This done, each officer and man will be allowed to return to their homes, not to be disturbed by United States authority so long as they observe their parole and the laws in force where they may reside.

Very respectfully,

U. S. GRANT,
Lieutenant-General.

Gen. R. E. LEE,
Commanding C. S. A.

Among those so surrendered was Lieut. R. F. Graves, who thereupon subscribed the oath of allegiance and received his parole. and repaired to his home in Prince George County, Va,, where it appears that he owned a large farm, improved by a substantial dwelling, two large granaries, and other outhouses, all in good order.

About May 5, 1865, a portion of Gen. Weitzel's corps of colored troops encamped on a part of Grave's farm, about half a mile distant from the improvements, and sepa-

rated from them by a swamp, and during their stay took his buildings to pieces to construct shelter tents and for other purposes, so as to practically destroy them.

On representation and appeal to Gen. G. H. McKibbin, that officer issued an order, viz:

SPECIAL ORDERS, No. 6. } HDQRS. SUBDISTRICT OF THE BLACKWATER, *Petersburg, Va., May 30, 1865.*

* * * * * * *

The following-named officers and citizens are hereby appointed a board to assess the damages done by the United States Army since the President's proclamation to the properties of Mrs. Martha Cocke, R. F. Graves, jr., H. W. Harrison, and Richard M. Harrison, all situated in Prince George County, Va.:

Col. Samuel D. Strawbridge, Second Pennsylvania Artillery.
Capt. George W. Webb, Second Pennsylvania Artillery.
Thomas Turner, citizen of Prince George County, Va.
William E. Bland, citizen of Prince George County, Va.

They will meet at the house of Mrs. Martha Cocke, Prince George County, on Friday, 2d proximo, at 10 o'clock a. m.

They will make duplicate reports to these headquarters.

By command of Bvt. Brig. Gen. McKibbin.

JOS. L. IREDELL,
Captain and Assistant Adjutant-General.

Said board, having fully investigated the facts, reported as follows:

PRINCE GEORGE COUNTY, VA.,
June 12, 1865.

CAPTAIN: In obedience to Special Orders, No. 6, Headquarters Subdistrict of the Blackwater, Petersburg, Va., May 30, 1865, we, the undersigned, a board of survey appointed under said order, having met in pursuance thereof on the 4th day of June, 1865, beg leave to submit the following as our report upon the property of R. F. Graves, jr., embraced in said order, in manner and form following:

Upon careful examination of the premises of R. F. Graves, jr., and having duly summoned witnesses well acquainted with said farm and premises, we assess the damage to said property, according to said survey, since the 10th of May, 1865, to date, at $7,000.

Upon this report is indorsed:

HEADQUARTERS SUBDISTRICT OF THE BLACKWATER,
Petersburg, Va., July, 1865.

The property mentioned within was damaged by United States troops after the cessation of hostilities east of the Mississippi, and after Mr. R. F. Graves had taken the oath of allegiance. The owner of the property was not on it at the time the damage was done, he having left it to the care of his black laborers. The appraisement was ordered that Mr. R. F. Graves might have an opportunity of submitting to the proper authorities his claim for damages.

GILBERT H. MCKIBBIN,
Bvt. Brig. Gen., U. S. Volunteers.

Such are the facts as exhibited by the original documents.

The principle under which compensation is claimed was fully discussed in the House January 19, 1883, in the case of Morgan Rawles, and the construction to be given the President's proclamation of August 16, 1861, as affirmed by the Supreme Court, 2 Wall., p. 276, was adopted.

The court said:

"Wherever the national troops have reëstablished order under national rule, the rights of persons and property have been, in general, respected and enforced.

"When Flag-Officer Farragut, in his first letter to the rebel mayor of New Orleans, demanding the surrender of the city, promised security to persons and property, he expressed the general policy of the Government.

"So, also, when Gen. Butler published his proclamation, and repeated the same assurance * * * he made no declaration that was not warranted by that policy. There was no capitulation. Neither the assurance nor the pledge was given as condition of surrender. Both were the manifestation of a general purpose which seeks the reëstablishment of the national authority, and the ultimate restoration of States and citizens to their national relations under better forms and firmer guaranties without any views of subjugation by conquest."

The damage occurred after Graves had taken the amnesty oath, which restored him to his relations of loyalty to the Government, and put him as much within the protection of the Government as any other citizen of the country; he had resumed his allegiance and accepted the plighted faith of the Government that he should thereafter receive full protection to his person and property.

Now the question is whether the Government, after having invited this submission upon the pledge of protection, can refuse the protection which it had guaranteed.

Graves is dead, his widow is struggling to provide for herself and five children; we think good conscience requires that the award, officially found, be paid to her, and recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 79.

LEGAL REPRESENTATIVES OF HENRY W. ARCHER.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2158.]

The Committee on War Claims to whom was referred the bill (H. R. 2158) for the relief of the legal representatives of Henry W. Archer, deceased, respectfully report:

This claim was presented to the Fifty-first Congress and a report was made in regard to it by the Committee on War Claims. As the examination by your committee has led them substantially to the same results with those arrived at by the committee of the Fifty-first Congress, they do not think it necessary to recapitulate the facts, but refer to that report and annex a copy for information.

Your committee recommend that the bill refered to them do pass.

[House Report No. 1194, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 7748) for the relief of the legal representatives of Henry W. Archer, deceased, report as follows:

The facts out of which the bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No 1432, Fiftieth Congress, first session.]

The petition of the legal representatives of Henry W. Archer, deceased, shows that the decedent during the entire war resided upon his farm in Harford County, Md.; and that he never gave any aid or comfort to the rebellion, but was throughout that war loyal to the Government of the United States; that during said war there was taken from said decedent by the Army of the United States for the public use and used by the said Army quartermaster's stores of the value of $820; and receipts were given to the decedent by the officers who took the property, and the receipts accompany the petition.

The loyalty of the decedent is attested by Edwin H. Webster, late colonel Seventh Regiment Maryland Volunteers and late collector of the port of Baltimore. Col. Webster's certificate is as follows:

BEL AIR, HARFORD COUNTY, MD., *March 17, 1888.*

To whom it may concern:

I, the undersigned, state that Henry W. Archer, late of Harford County, Md., resided in Bel Air throughout the late rebellion of the Southern States, 1861–1865.

That I was intimately acquainted with him, and that to the best of my knowledge

and belief he was a loyal citizen of the Government of the United States, committing no overt act whatever against the Government, but living as a peaceable citizen during the entire war.

EDWIN H. WEBSTER,
Late Colonel Seventh Maryland Volunteers.

Your committee is of opinion that the account is correct and just, and that the property was taken as charged; that he has not received pay or compensation therefor from any source, but the same is still due and owing to him from the United States.

Your committee therefore report herewith a bill, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 80.

SUSANNAH P. SWOOPE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1475.]

The Committee on War Claims, to whom was referred the bill (H. R. 1475) for the relief of Susannah P. Swoope, report:

This claim was presented to the Fifty-first Congress, and a report was made in regard to it by the Committee on War Claims. As the examination by your committee has led them to substantially the same results as those arrived at by the committee of the Fifty-first Congress, they do not think it necessary to recapitulate the facts, but refer to that report and annex a copy for information.

Your committee recommend that the bill referred to them do pass.

[House Report No. 2499, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 10999) for the relief of Susannah P. Swoope, report as follows:

That the Committee on War Claims of the Forty-ninth Congress referred the case to the Court of Claims for a finding of facts under the provisions of the Bowman act. Said claim has been returned by the said Court of Claims with the following findings of fact, to wit:

[Court of Claims. Congressional case No. 568. Susannah P. Swoope *vs.* The United States.]

FINDINGS OF FACT.

At a Court of Claims held in the city of Washington on the 4th day of June, A. D. 1888, the court filed the following findings of fact, to wit:

The claim or matter in the above-entitled case was transmitted to the court by the Committee on War Claims of the House of Representatives on the 4th day of March, 1886.

J. W. Douglass, esq., appeared for claimant, and the Attorney-General, by F. P. Dewees, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on the 28th day of May, 1888, the court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, finds the facts to be as follows:

I.

In the month of December, 1864, William Irvin, of Curwensville, Clearfield County, Pa., was the owner and in the possession of a two-story frame building in said Curwensville in said county, which before that time had been for many years the dwelling house of the said William Irvin.

At said time the military forces of the United States, under the command of Capt. Kerr, took possession of said house (the same being vacant) as quarters, and occupied the same until some time in the following January, when the house was burned.

At the time of the occupancy of said premises the said forces were engaged in looking after and arresting deserters from the Army of the United States.

Said house consisted of five rooms and a hall below and two rooms in the second story.

It was in a good state of repair. Attached to said dwelling was a number of outhouses and a barn. The barn was used by the soldiers in stabling their horses. The said house was taken possession of against the protest of said Irvin.

II.

At the time of said fire there were three large wood stoves in said house belonging to said Irvin and ten cords of firewood on said premises belonging to said Irvin. Said stoves were worth at the time of the fire $30.

The wood was worth $20. The stoves were destroyed by the fire and the wood consumed by the soldiers.

The said house was burned on the 29th day of January, 1865. The fire originated late in the night, after the return of a scouting party of the soldiers. The fire originated in the house, but it does not appear from what cause.

The said dwelling house at the time of the fire was reasonably worth the sum of $3,000).

It does not appear that any payment has been made to said Irvin or to any other person as a compensation for the loss of said property.

The said claimant is a daughter of said Irvin, who died in 1870, leaving a will. The will makes no disposition of the claim against the United States.

All the parties interested as heirs of said Irvin have assigned their interest to the claimant. The said Irvin left several children and they have each assigned to claimant.

BY THE COURT.

Filed June 4, 1888.
A true copy.
Test, this 8th day of June, A. D. 1888.
[SEAL.]

JOHN RANDOLPH,
Asst. Clerk, Court of Claims.

PETITION.

[Filed Sept. 20, 1886.—J. R.]

To the honorable the Court of Claims of the United States:

Susannah P. Swoope respectfully prefers her petition, to wit:

(1) That she is a citizen of the United States, and resides at Curwensville, Clearfield County, Pa.

(2) That some time in the month of December, 1864, William Irvin, of Curwensville, Clearfield County, Pa., rented to the United States, for quarters for the soldiers of two companies of the Sixteenth Regiment, V. R. C., a certain large two-story, frame dwelling house, situated on the west branch of the Susquehanna River, in the said county of Clearfield, with some personal property therein, as hereafter specified. That the said Irvin was requested to rent the said property, with two barns and other outbuildings in connection therewith, by the officers in command of the said two companies and the regimental quartermaster of the said command; and, though at first unwilling to rent the property (it being a valuable one) for such purposes, upon the urgent representation of the said officers that his house, from its size and situation, was the only one obtainable there that was suited to the purpose, and that, otherwise, the troops might be compelled to camp out during the winter, finally agreed to allow the premises to be occupied by the troops, upon the express understanding that the United States was to be responsible for all damages or injury that might happen to the property while in possession of the troops.

(3) That there was in the house at the time the troops took possession four wood stoves and necessary pipes, worth $72; also one large 9-plate stove, with necessary pipe, worth $35; also firewood ready for use, and which was used or destroyed, as hereinafter described, worth $25; also a quantity of lumber on the premises, which was used by the troops to make bunks and stalls, worth $25.

(4) That on the night of the 28th and 29th of January, 1865, the said dwelling house was totally destroyed by fire, with its contents, and while in the possession of the troops aforesaid; that the said fire and destruction of the house and other property was caused by the carelessness of the occupants aforesaid.

(5) That your petitioner was a daughter of the said William Irvin, who died on the 19th day of December, 1869.

(6) That by a proper conveyance, dated January 14, 1875, all of the heirs of the said William Irvin joined in an assignment of all their interests or rights in the aforesaid claim to your petitioner, and that your petitioner is, and has been since the said assignment, the sole and exclusive owner of the claim herein set forth.

(7) That the said dwelling house, destroyed as aforesaid, was worth at the time of its destruction not less than $4,500, and that the personal property destroyed with it or used by the troops was worth $157. And there was also due at the time of the destruction of the property, as a fair rental value for the use of the said premises before the fire, the sum of $150, thus making a total sum of $4,807 due to your petitioner under the claim herein set forth and referred for findings by the Committee on War Claims of the House of Representatives.

(8) That neither the said William Irvin, nor his heirs, nor his legal representatives, nor your petitioner, have ever received any compensation from the United States or from any insurance on the said property for the destruction of the property, or for the use of the said premises and personal property above described.

Wherefore your petitioner prays a favorable finding and report for the sum of $4,807.

SUSANNAH P. SWOOPE,
Petitioner.

J. W. DOUGLASS,
Attorney for Petitioner.

STATE OF MINNESOTA, *County of Hennepin, ss:*

Personally appeared Susannah P. Swoope before me, a notary public in and for the county aforesaid, she being personally known to me, who made oath in due form and according to law that the statements made in the foregoing petition are true, and that no assignment of her claim has ever been made, to the best of her knowledge and belief.

Witness my hand and seal this 15th day of September, 1886.

[L. S.]

A. V. TALBERT,
Notary Public, Hennepin County, Minn.

APPENDIX.

COMMITTEE ON WAR CLAIMS, HOUSE OF REPRESENTATIVES,
Washington, March 4, 1886.

SIR: I have the honor to transmit herewith the claim of Susannah P. Swoope, which I am directed by the Committee on War Claims to transmit to the Court of Claims for an investigation and determination of facts under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883.

I am, sir, very respectfully,

JAMES T. GEDDES,
Clerk to the Committee.

Hon. WM. A. RICHARDSON,
Chief Justice United States Court of Claims.

Your committee report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 81.

RANDOLPH WESSON.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1228.]

The Committee on War Claims, to whom was referred the bill (H. R. 1228) for the relief of Randolph Wesson, submit the following report:

The history of the claim is set forth in House report from the Committee on War Claims, first session, Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 110, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred House bill 1607, submit the following report:

Randolph Wesson was a soldier in the U. S. Army during the late war, and while he was away from home in the service of his country the quartermaster of the Seventh Illinois Volunteer Infantry went to the home of Mr. Wesson and took from the father of claimant one mule valued at $150, for which he gave his receipt to H. H. Wesson, claimant's father, reciting the fact that the property was taken for the use of the Army. After the war claimant placed his claim in the hands of Gen. E. A. O'Neal, of Alabama, for collection, but Gen. O'Neal overlooked the claim in the excitement of the reconstruction period, and was then elected governor of the State, and left his law business in the hands of his son. The claim was never filed before the Quartermaster-General, and the receipt was not found until some time in the year 1887.

The failure to prosecute the claim was not the fault of the claimant. The proof of the taking and of the ownership of the property is clear, and claimant's loyalty is established by his military service. The committee therefore recommend the passage of House bill 1607.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 82.

HENRY S. FRENCH.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2577.]

The Committee on War Claims, to whom was referred the bill (H. R. 2577) for the relief of the estate of Henry S. French, submit the following report:

The history of the claim is set forth in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 311, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3148) for the relief of the estate of Henry S. French, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto appended for information.

Your committee adopt the said report as their own and recommend that the bill do pass.

[House Report No. 1781, Fiftieth Congress, first session.]

The facts out of which this bill for relief arises will be stated in House report from the Committee on War Claims of the Forty-third Congress, a copy of which is hereto annexed and made a part of this report.

Your committee adopt the said report as their own and report back the bill and recommend its passage, with the following amendment:

In lines 13, 14, 15, 16, and 17, strike out the words "also to review the decision of the Southern Claims Commission for the value of one hundred bales of cotton used for hospital purposes at the battle of Jonesboro, Ga., and rendering judgment thereon," and insert in lieu thereof, "said judgment to be paid out of the captured and abandoned property fund."

HOUSE REPORT.

That the said Henry S. French is a resident of Nashville, Tenn., and resided there in September, 1864; that about that date he claims to have been the owner of 336 bales of cotton, stored at Jonesboro, in the State of Georgia, in what was known as "Johnson's Rock warehouse," under the name of Butler & Peters; that he claims

that said cotton was taken possession of by the chief quartermaster of Gen. Sherman's army, at or about the time of the battles around Atlanta, Ga.; that part of the same was used for hospital purposes, and the balance transferred to a Treasury agent under the captured and abandoned property act.

The claim was presented to the commissioners of claims under the act of March 3, 1871, and is now pending before said commission. The commissioners decided in their first report (see Mis. Doc. No. 16, second session Forty-second Congress) that their jurisdiction extended only to claims where cotton was taken for stores and supplies, or for beds and hospitals, in which latter case it has been paid for as hospital stores, and all cases not embraced in that category have been rejected.

The petitioner now comes to Congress for relief, and asks that his case may be referred to the Court of Claims for examination upon the facts to be submitted by him, and under the rules and regulations of said court. He has filed before the committee the testimony of William G. Le Duc, who was the chief quartermaster of the Twentieth Army Corps, commanded by Gen. Hooker.

Gen. Le Duc states that after the capture of Atlanta he was instructed to seize all the cotton in the city and in the neighboring towns and ship it for the benefit of the United States. This order was issued by command of Gen. Sherman, and under and in pursuance of said order Gen. Le Duc states that he seized all the cotton he could find. He also states that a reference to the memorandum book shows that on the 20th of September, 1864, he took the cotton from a stone warehouse at Jonesboro; that there were about 230 bales only in condition to ship, and that there was also some loose cotton, he did not know how much, but he presumed that there were 10 bales left behind, which had been cut open by the troops when they were there, part of the cotton being used for hospital and other purposes in the vicinity of the battle. He also states that the cotton was bright, clean, and well ginned, and that the cotton was taken under his own personal supervision, and that it was sent forward to Nashville, as he afterwards traced it up as far as Nashville, beyond which point he had no further knowledge as to its disposition.

In the case of the United States *v.* Crusell (14 Wall., p. 1), which is analogous to this case, the court decided substantially that where property is traced into the hands of an officer or agent of the Government the onus is on the Government to show what they did with it. In that case Chief Justice Chase, who delivered the opinion of the court, said:

"Presuming that the officers of the Government performed their duty, there can be no doubt that the quartermaster at Atlanta forwarded to the officer in charge of military railroad transportation the cotton of the claimant, and that this officer turned over the cotton to the agent at Nashville, by whom it was forwarded to Cincinnati and sold by the supervising agent there. The presumption in this case is strengthened by the fact that heavy statutory penalties would be incurred by neglect of duty. There is nothing in the case to repel this presumption. If any evidence to this effect exists, it must be contained in the books of the Treasury Department, and these are under the control of the defendant.

"We think, therefore, that the conclusion of the Court of Claims, that the proceeds of the 73 bales of cotton belonging to the claimant were paid into the Treasury and that the claimant was entitled to judgment, was right."

In the present case Gen. Le Duc, chief quartermaster, swears positively that he shipped 230 bales of French's cotton to Nashville in September, 1864.

Your committee have not undertaken and will not undertake, in any case, to settle the question as to the sufficiency of proof as to the taking and disposition of cotton for which claim is or may be made, but are of opinion clearly that the claimant is entitled to bring suit in the Court of Claims to maintain his action against the Government. That tribunal is clothed with power to ascertain all the facts, and, with its long experience in investigating claims of this character, can ascertain the truth much better than any committee of Congress could do, and would be more likely to render justice alike to the Government and the claimant. This petitioner states that he did not present his claim to the Court of Claims against the United States within the time allowed by acts of Congress, for the reason that, until after the expiration of the two years, he believed his cotton to have been destroyed, and that he is now informed, and is ready and able to prove, that all of his cotton not used for hospital purposes was taken possession of and the proceeds paid into the Treasury Department.

Your committee believe, upon the evidence of Gen. Le Duc and the representations made to them, that the claimant is clearly entitled to a hearing, and to that end report the accompanying bill, authorizing the said Henry S. French to bring suit in the Court of Claims under the rules and regulations of said court, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 83.

ODON DEUCATTE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1983.]

The Committee on War Claims, to whom was referred the bill (H. R. 1983) for the relief of Odon Deucatte, submit the following report:

All the facts and circumstances upon which the claim for relief in this case rests are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 1464, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 8719) for the relief of the estate of Odon Deucatte, report as follows:

Odon Deucatte alleges that some four hundred and thirty-three bales of cotton were unlawfully taken from him in March, 1864, by the forces of the United States, and that the proceeds of the sale thereof are lodged in the Treasury. He filed his claim, as a citizen of France, before the late French and American Claims Commission, but said Commission dismissed it on the ground that, having at one time declared his intention of becoming a citizen of the United States, he was not within the purview of the act of Congress establishing said Commission. (See Vol. XI, Reports of French and American Claims Commission, claim No. 101, Odon Deucatte *vs.* United States.)

On March 26, 1884, the Commission rendered a decision in which they reviewed the testimony upon the merits of the claim and upon the claimant's allegation of French citizenship. The following is an extract from the concluding part of said decision:

"In consistency with these decisions we find that the claimant is not a French citizen, and are therefore obliged to disallow the claim."

Subsequently, a motion for the reformation of said decision was made, and the following is an extract from the minutes of the Commission:

[French and American Claims Commission. Order dismissing for want of jurisdiction. Filed March 29, 1884. Odon Deucatte *vs.* The United States No. 101.]

WASHINGTON, *March 29, 1884.*

The motion to reconsider the above case is denied. The entry of judgment, as it now stands, is "disallowed." This is incorrect. The entry should be "dismissed for want of jurisdiction." The secretaries are directed to change the entry upon the record accordingly.

ARINOS.
A. LEFAIVRE.
A. O. ALDIS.

The record shows that Odon Deucatte filed a declaration of his intention to become a citizen of the United States, but that he never took the oath of allegiance,

and that therefore he regarded himself as a citizen of France, and compelled, under the law, to apply through his Government for the return of the proceeds of his cotton. It is evident, therefore, that no laches can be ascribed to him, in view of the Commission's decision as above stated. Papers have been filed with your committee to show that he was loyal to the United States during the late war, but that is not a material question here. In view of all the foregoing, we respectfully submit that the bar of the statute of limitations may very properly be removed, and that the case may be heard in the Court of Claims.

In the trial before the French and American Claims Commission a large amount of of testimony was taken, both on behalf of the claimant and of the United States, some seventy witnesses having been examined and cross-examined on deposition. This testimony was procured at a great expense of time and money, and is much more full and complete, both for and against the claim, than any testimony which could possibly be taken at this date. We therefore respectfully submit that the provision of the bill authorizing either the Government or the claimant to use said testimony is eminently proper.

There has been omitted in the bill a provision for the payment of any judgment that may be awarded in favor of the claimant out of the fund in the Treasury known as the "captured and abandoned property fund," and we report back the bill and recommend its passage, with the following amendment:

At the end of line 15, insert the following:

"And the Secretary of the Treasury is hereby authorized and directed to pay any judgment that may be finally awarded in favor of the claimant out of the fund in the Treasury received from the sale of captured and abandoned property."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 84.

MRS. A. SHIRLEY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4791.]

The Committee on War Claims, to whom was referred the bill (H. R. 4791) for the relief of Mrs. A. Shirley, submit the following report:

The facts of this claim are fully set forth in a report made to the House by this committee in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 1288, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 7740) for the relief of Mrs. A. Shirley, report as follows:

This claim is for quartermaster's stores, amounting in value to $8,348.57, taken from a plantation near Vicksburg, Miss., in May, 1863, for the immediate use of the U. S. Army.

The amount as stated was assessed by a military commission convened by order of the commanding general of the post of Vicksburg, Gen. James B. McPherson, as soon after the siege of Vicksburg as it could be consistently done. Said commission consisted of the following Army officers: Edwin S. McCook, colonel Thirty-first Regiment Illinois Infantry Volunteers; Robert P. Sealy, lieutenant-colonel Forty-fifth Infantry; George W. Kennard, major Twentieth Illinois Infantry; Lieut. Col. William T. Clark, assistant adjutant-general Seventeenth Army Corps, Department Tennessee.

The commission, after examining the property and obtaining information by affidavit, verbal testimony, and having some of them been actual witnesses to the taking of the property, assessed the amount $8,348.57, above given, as just and correct, not only in their opinion but in that of many other officers camped on or near the property when it was being appropriated. They also say in their report that many of the articles taken were very necessary to the U. S. Army at the time taken. This last is more fully substantiated in the affidavit of the Hon. George C. McKee, ex-Representative from Mississippi, filed herewith. He says, "Our Army needed everything and we took everything." Also by Capt. W. W. Leggett and R. Q. Shirley.

The report of this commission was approved in the handwriting of each by Maj. Gen. W. E. Sherman and Maj. Gen. James B. McPherson. It was then submitted to the Secretary of War in April, 1864. Being passed on favorably by said Department, an order issued for its payment in May, 1864. Before payment was made the law of July, 1864, passed Congress, forbidding payment of such claims by the War Department.

Proofs of loyalty were shown by Gen. U. S. Grant in March, 1866, in a letter to Secretary of War, in which he recommended payment and that the report of the commission be regarded as a voucher; also saying "the loyalty of claimant from

commencement of rebellion to the present is undoubted." This recommendation was perfectly in accordance with a remark made to Mrs. Shirley when the property was being appropriated, to wit: In answer to her request to him to stop the soldiers, he said "he could not stop them as they were needy, but that the Government would make up her losses." This is shown in affidavit by R. Q. Shirley, same being indorsed by Maj. Gen. John A. Logan.

Proofs of loyalty are abundantly shown also in each and all affidavits herewith filed and by answers under oath before a United States commissioner to the usual questions, substantiated by witnesses. One strong proof was in having a son in the Union Army. The husband of claimant, Capt. James Shirley, who died in August, 1863, aged sixty-nine years, was shown to be the staunchest Union man in the country in which he lived until the time of his death. It is shown by proof adduced that the claimant and all of her family were firmly and actively with the Union cause. The claimant showed her preference by refusing to go inside the Confederate lines with her property, as her neighbors had done, although pressed and almost forced to do so. Whereas, she kept all outside the line of fortifications that all could fall into Federal hands and benefit them, if anybody. This was seen and appreciated by the Union troops, and hence the interest taken in her by the officers.

The condition of the property is shown to be good, with nothing destroyed except a stable and shed destroyed by the Confederates, when taken possession of by the Federals. General McKee testifies that the house was well furnished. It is shown that the house and property was occupied and its occupants known to the Army at the time to be Union, and per consequence the property was not destroyed wantonly, as is usual, but appropriated only as necessity required.

That there was a necessity is fully shown—shown by the official report of Gen. U. S. Grant, dated Vicksburg, Miss., July 6, 1863, in which he said five days' rations were all that was issued during twenty days. These twenty days ended during the siege and after the first few days of the arrival of the Army on this property. It is shown by affidavits of captain of engineers on the ground, Capt. W. W. Leggett, the captain in command of advance skirmishers, now Gen. George C. McKee, and by Maj. Gen. John A. Logan, commander of division.

The report of commissioners and subsequent affidavits all show that the property for which remuneration is here sought is personal. The houses are reduced to lumber and fencing to panels. A fine orchard put in as cord wood, while the fruit, ripe and daily ripening, is put in at the lowest possible valuation. Nothing is claimed for loss of stable and shed, damage done to land by breastworks, fortifications, etc., or for the casualties of war, such as from being under musket fire, neither for rent of premises. The horses, mules, carriages, etc., were very necessary to the Army.

The claim having been acted upon and adjudged a just and lawful claim by Secretary Stanton in 1864, before the act of July 4 of that year, there was for years a doubt as to whether or not it could not be paid by the War Department. All doubt seemed only to be removed in July, 1876, when it was finally decided that that Department could not pay it. In each of the several investigations by the Secretary of War, the claim was recommended to Congress as a meritorious claim and that Congress alone could adjudicate the entire claim.

Your committee, in view of the foregoing statement of facts, report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 85.

D. W. AND MINNA H. GLASSIE AND JOSEPH C. NASH.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2585.]

The Committee on War Claims, to whom was referred the bill (H. R. 2585) for the relief of D. W. and Minna H. Glassie and Joseph C. Nash, submit the following report:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 2439, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2651) for the relief of D. W. and Minna H. Glassie and Joseph C. Nash, report as follows:

The Committee on Claims of the Forty-ninth Congress made a report, which is as follows:

[House Report No. 3045, Forty-ninth Congress, first session.]

This is a claim to compensation for wood taken and used by the United States troops during the war, stated at $5,226. The claim was presented for adjustment to, and the proof taken in pursuance with the practice, by one of its special commissioners, by the Commissioners of Southern Claims, but though placed in the hands of one of the Commissioners, and though he gave repeated assurances that he would take it up, it does not appear to have ever been acted upon by said commissioners. It therefore comes to us without adverse or other action.

The wood claimed for consisted of—

34,800 fence rails, computed at 348 cords, stated at	$2,436
900 cedar pickets, computed at 9 cords, stated at	45
38 cords of wood in seasoned logs, stated at	190
65 cords of cut and ranked wood, stated at	455
700 cords of wood cut from standing timber, stated at	2,100

There can arise no doubt, from the proof taken by the Government, that the rails, wood, and timber were taken and used by the United States troops, a large force of whom, without shelter or other fuel, camped on the grounds in November, 1862, and remained more than two months, and were followed by other troops successively until the July following. And after the troops had gone some of the best people in the neighborhood, men who knew the place well, saw the troops daily while they were there and had been daily in their camps, in company with a United States Army officer, went onto the grounds, counted the panels of fence taken, and computed the number of rails, counted the picket holes and computed the number of pickets taken, by measurement ascertained the quantity of wood taken in logs, measured *where the rank of wood stood to get the* number of cords of cut and ranked wood,

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 87.

WELLS CHENEY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CURTIS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1425.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1425) granting a pension to Wells Cheney, submit the following report:

Munson W. Cheney, the only son of Wells Cheney, enlisted September 2, 1864, and was duly mustered into Company I, Ninth New York Cavalry, and died in service March 26, 1865, of typhoid fever. This son, Munson W. Cheney, left no children, but did leave a widow, Elsie E. Cheney, who was pensioned at $8 per month from the date of the soldier's death until she remarried, October 8, 1872. The soldier's mother, wife of Wells Cheney, died December 27, 1870.

Wells Cheney, the claimant herein, is now about 85 years of age, has no means of support, and is dependent on a daughter who supports herself by daily labor.

It is further stated that the father and mother of the soldier were at one time dependent on him for support; that when the soldier's body was brought home sorrow for his loss caused his mother to become insane and she died a few years later.

Your committee, therefore, return the bill with recommendation that it do pass, with the following amendment:

In line 8, strike out the word "fifty" and insert in lieu thereof the word "twelve."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 88.

VALENTINE SAUPPE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 716.]

The Committee on War Claims, to whom was referred the bill (H. R. 716) for the relief of Valentine Sauppe, respectfully reports as follows:

This claim was presented to the Fifty-first Congress, and a report was made in regard to it by the Committee on War Claims. As the examination by your committee has led them substantially to the same results as those arrived at by the committee of the Fifty-first Congress, they do not think it necessary to recapitulate the facts, but refer to that report and annex a copy for information.

Your committee recommend that the bill referred to them do pass.

[House Report No. 247, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2144) for the relief of Valentine Sauppe, report as follows:

The proof filed in support of the bill shows that the petitioner, Valentine Sauppe, of Adams County, Pa., at the time of and subsequent to the battle of Gettysburg, owned a bakery in the town of Gettysburg; that the petitioner furnished the hospitals at said place with crackers, flour, and bread, under a verbal contract with Dr. Ward, who had charge of said hospitals; that the petitioner furnished crackers, flour, and bread to said hospitals for about six weeks, claim stated at $664; that the officer in charge of said hospitals failed to give the petitioner vouchers for the same for the reason that he was suddenly ordered to the Army of the Potomac; that the petitioner placed his claim in the hands of an attorney, who filed the same in the War Department, but nothing was ever done with it. The claimant is a poor and ignorant man, and had supposed his claim was being duly prosecuted.

Your committee is of the opinion that the claimant should be paid $664, and report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 89.

JOSEPH HAXTHAUSEN.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1110.]

The Committee on Claims has considered this bill and find that a similar bill was favorably reported to the Forty-ninth and Fifty-first Congresses, and believing it to be a just measure, report it back to the House with the recommendation that it do pass.

The committee adopts, as its own, the report made to the Forty-ninth Congress, which is as follows:

[House Report No. 2174, Forty-ninth Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 4000) for the relief of Joseph Haxthausen, having considered the same, respectfully report:

The object of this bill is to authorize the refunding or payment to Joseph Haxthausen $110, special taxes overpaid by him in the year 1873. The facts are briefly stated in the letter of the collector of the fifth Kentucky district, which letter is hereto annexed, marked Exhibit A. The reason the amount claimed was not refunded is given in the letter of the Commissioner of Internal Revenue, hereto annexed, marked Exhibit B.

The committee are of opinion that it is a proper case for relief, and recommend that the bill do pass.

EXHIBIT A.

UNITED STATES INTERNAL-REVENUE
COLLECTOR'S OFFICE, FIFTH DISTRICT, KENTUCKY,
Louisville, March 4, 1880.

SIR: Upon examination of the records of this office, I find that on 10th June, 1872, the firm of Ropke & Haxthausen, of this city (said firm composed of John H. Ropke and Joseph Haxthausen), paid into this office the following special taxes:

Rectifiers of spirits	$200
Wholesale liquor dealers	100
Retail liquor dealers	25
Dealer in manufactured tobacco	5
Total commencing May 1, 1872, and ending April 30, 1873	330

John H. Ropke, one of the firm, died about the end of 1872, and Joseph Haxthausen, under the then rulings of the Department, as surviving partner continuing the same business at the same place, was required to pay, *and did pay*, into this office the following special taxes for the period commencing 1st January, 1873, and ending 30th April, 1873, four months, viz:

Rectifiers of spirits	$66.67
Wholesale liquor dealers	33.23
Retail liquor dealer	8.33
Dealer in manufactured tobacco	1.67
Total for January, February, March, and April, 1873	110.00

The above sum, $110, being for one-third of the same year paid by the firm of Ropke & Haxthausen. Under a late decision of the United States Supreme Court this last sum, $110, should be refunded to Mr. Haxthausen, the surviving partner. A refunding claim for this amount, as you will recollect, was prepared for you at this office and forwarded in September last, but rejected, as the letter of the Commissioner shows, being barred by limitation. It was made out, as you know, as soon as presented to this office, but it seems you had delayed too long. I hope some general law will be passed extending the time under which you and several others I know of may get relief and your claim allowed.

Respectfully,

S. F. BUCKNER, *Collector*.

Mr. JOSEPH HAXTHAUSEN,
93 *West Main street, Louisville, Ky.*

EXHIBIT B.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, February 23, 1884.

SIR: Your letter of the 20th instant has been received, in which you ask, on behalf of the Committee on Ways and Means, to be informed whether certain special taxes, amounting to $110, paid by Joseph Haxthausen upon the dissolution of the firm of Ropke & Haxthausen, as surviving partner of said firm, for the period commencing January 1, 1873, have ever been refunded.

In reply I have the honor to state that a claim for refunding $110, paid as above stated, was filed in this office by Mr. Haxthausen in September, 1879, and was rejected, not having been presented within three years from the date of the purchase of the stamps.

There is no record of any allowance by this office to Mr. Haxthausen on account of the special taxes above mentioned.

Respectfully,

WALTER EVANS, *Commissioner*.

Hon. ALBERT S. WILLIS,
House of Representatives.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 90.

F. Y. RAMSEY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2850.]

The Committee on Claims, to whom was referred House bill 2850, having considered the same, submit the following report:

That from the year 1845 to April 30, 1861, the late Joseph Ramsey was collector of customs, and superintendent of lights, district of Plymouth, N. C. That his accounts were balanced on said 30th day of April, 1861, showing that the Government owed him $430.42. That this balance has never been paid and still stands to his credit on the books of the Treasury Department, as shown by letter filed with the papers, dated April 16, 1890. That Joseph Ramsey is dead, and that F. Y. Ramsey is his heir at law and distributor.

Your committee is of the opinion that this bill should pass and so recommend.

TREASURY DEPARTMENT, OFFICE OF COMMISSIONER OF CUSTOMS,
Washington, D. C., April 10, 1890.

SIR: I am in receipt, by reference, of your letter dated the 2d instant, addressed to the honorable the Secretary of the Treasury, inclosing a letter written to you, under date of March 15, 1890, by Fletcher Y. Ramsey, in relation to a balance of $590 claimed to be due from the United States to his father, Joseph Ramsey, deceased, formerly collector of customs and superintendent of lights, district of Plymouth, N. C.

It appears from the records of this Department that Mr. Joseph Ramsey was collector of customs for several years at the port of Plymouth, N. C., and that his accounts were adjusted to April 30, 1861, and a balance of $590.59 was found due him on his account as superintendent of lights.

Of this amount the sum of $160.17 was used to settle other accounts on which he was a debtor to the Government, as follows, viz:

Under his official bond of March 1, 1859:	
On account of customs	$51.19
On account as disbursing agent for expenses of collection	47.92
On account as disbursing agent for marine hospital fund	39.31
On account of customs, bond dated July 1, 1853	.54
On account of customs, bond dated August 29, 1846	21.21
Total	160.17

Leaving a balance of $430.42 still standing to his credit on the records of the Treasury, payment of which is prohibited by Section 3480, Revised Statutes.

Respectfully submitted.

H. A. LOCKWOOD,
Acting Commissioner of Customs.

Hon. B. H. BUNN, M. C.,
House of Representatives, Washington, D. C.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 91.

ELIJAH P. T. HOLLCROFT.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 754.]

The Committee on Claims, to whom was referred the bill (H. R. 754) directing the issue of duplicate United States bonds to Elijah P. T. Hollcroft, guardian of Burton J. Parr, submit the following report:

This is a bill the purpose of which is to authorize and direct the Secretary of the Treasury to issue to Elijah P. T. Hollcroft, guardian of Burton J. Parr, five 4 per cent coupon bonds of the United States of the denomination of $1,000 each, of the issue of July 1, 1877, under the act of July 14, 1870, together with coupons attached for interest due and to become due since September, 1888, in lieu of similar bonds numbered 929, 930, 931, 932, and 933, alleged to have been destroyed by fire.

Your committee have carefully considered the evidence in this case and find that on the 12th of November, 1888, Burton J. Parr was the owner and in possession of the bonds described, and that on or about that time he burned said bonds while in a fit of insanity; that he is now insane and confined in the insane asylum at Evansville, in the State of Indiana; that Elijah P. T. Hollcroft is his guardian, duly appointed and qualified under the laws of the State of Indiana; that said bonds, with the coupons attached as alleged in the bill, are still outstanding, and have never been redeemed or paid.

Your committee therefore report back the accompanying bill, and recommend that it be amended by adding the initial letter "T." after "P." in Hollcroft's Christian name, and as so amended the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 92.

HEIRS OF NOAH NOBLE, DECEASED.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 915.]

The Committee on Claims, to whom was referred the bill (H. R. 915) for the relief of the heirs of Noah Noble, deceased, having carefully examined the same, make the following report:

That Noah Noble was receiver of public moneys at Indianapolis in 1832; that the accounts of said Noah Noble were settled at the General Land Office in the Department of the Interior in 1832, and there was found due to him the sum of $583.70, and that he died without having collected the same, and that no part thereof has ever been paid to him or to his legal representatives or heirs at law, and is still standing to his credit.

Your committee are of the opinion that the parties are entitled to the relief asked for and recommend the passage of the accompanying bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 93.

W. J. TAPP & CO.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1112.]

The Committee on Claims, to whom was referred the bill (H. R. 1112) for the relief of W. J. Tapp & Co., submit the following report:

A bill similar to this was favorably reported to the House by the Committee on Claims of both the Fiftieth and Fifty-first Congresses, and is now favorably reported by the committee with the recommendation that it do pass.

The report of the committee of the Fiftieth Congress, which was adopted by the committee of the Fifty-first Congress, sets out the facts as follows:

In May, 1876, W. J. Tapp & Co., of Louisville, in the State of Kentucky, manufacturers of goods from jute fiber, imported certain machinery for their business, such machinery not being then made in the United States, to be used by them exclusively in the manufacture of that fiber, and which was adapted to and could be used for no other purpose. By the provisions of section 7 of the act of February 8, 1875, such machinery was entitled for two years thereafter to entry free from duty.

On the 12th of November, 1875, the Secretary of the Treasury decided that no machinery was exclusively adapted to such manufacture.

When the machinery of Tapp & Co. arrived at the port of entry they claimed it was entitled to be admitted free under the law, but the claim was denied, and the duties and charges, amounting to $240.10, gold, were paid by them under protest. Other importers of similar machinery pursued the same course.

The Secretary of the Treasury subsequently, on the 23d of March, 1877, reversed his former decision and admitted duty free similar machinery imported in October, November, and December, 1875, by Buchanan & Lyall, of New York.

Thereafter Tapp & Co. applied to the Department for a rebate of the duties they had paid, and were refused on the ground that they did not appeal from the original decision of the appraiser of customs declaring their machinery dutiable. The law provided for such appeal, but having paid the duties under protest they deemed it unnecessary, and no doubt supposed it would be unavailing to appeal to a tribunal which had then recently, as to other parties, decided the same question adversely to their claim.

In view of the fact that the Supreme Court has decided that "a payment made to a public officer in discharge of a fee or tax illegally exacted is not such a voluntary payment as will preclude the party from recovering it back" (111 U. S., 22), your committee are of the opinion that the parties are entitled to the relief asked for, and recommend the passage of the accompanying bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 94.

MICHAEL KEEFE, DECEASED.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CROSBY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1084.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4964) to remove the charge of desertion now standing against Michael Keefe, deceased, having considered the same, respectfully report that Michael Keefe was enrolled as a private in Company B, Eighth Connecticut Volunteers, on September 27, 1861, to serve three years. He was wounded in battle at Antietam, September, 1862. He returned from hospital to his command November 13, 1862. He was reënlisted as a veteran December 24, 1863. He was with his command until February 29, 1864. He was admitted to hospital and treated for disease, and was reported as a deserter from a hospital at New Haven, Conn., September 28, 1864. He did not again return to his command, which was retained in service until December 12, 1865. (See report of War Department hereunto annexed.) The evidence offered in behalf of this soldier tends to show that the soldier was insane at the time of his desertion. Considering the service of this soldier, and all the circumstances of the case, the committee recommend that the bill do pass.

Case of Michael Keefe, late private, Company B, Eighth Connecticut Volunteers.

RECORD AND PENSION DIVISION, *June 17, 1890.*

Michael Keefe, private Company B, Eighth Connecticut Volunteers, was enrolled on September 27, 1861, to serve three years. He was wounded in the battle at Antietam, Md., September 17, 1862; was admitted to Mansion House general hospital, Alexandria, Va., September 29, 1862, with gunshot wound, and was returned to duty on November 13, 1862. He is reported present with his company on all muster rolls covering the period from January 1, 1863, to February 29, 1864. (He reënlisted as a veteran volunteer on December 24, 1863.) He was admitted to Hampton general hospital, Fortress Monroe, Va., April 20, 1864, from the regiment, with syphilis, and continued to be treated for that disease at various hospitals, being admitted to Knight general hospital at New Haven, Conn., May 14, 1864, and being reported as having deserted there on September 28, 1864.

He never returned. His company was retained in service until December 12, 1865.

The widow of this soldier has made application for removal of the charge of desertion, alleging that when the soldier left the hospital at New Haven without leave he was insane, his condition being the result of the wound in the head received by him in battle on September 17, 1862; that when he was found by friends at Warren, Mass., in August, 1865, he was broken down and mentally deranged, and not accountable for his absence.

William Gammell, Charles F. Tilden, Rollin Terry, and Patrick Horan have testified that they served in the same company with Keefe, and further, in substance, that from the time Keefe returned to his company (about a month and a half after the battle of Antietam) until he went again into hospital in 1864, he was at times of unsound mind, suffering from mental hallucinations, believing that the top of his head was off, and requesting to have his head tied up, although his wound was entirely healed. They state this happened many times, and he was excused from duty on account of it. Deponents believe that his mental derangement was caused by the wound in his head. Gammell states that he was first sergeant of the company and saw Keefe daily, and during all this time Keefe was at times of unsound mind on account of his wound. About May 1, 1864, when the regiment was ordered to march, Gammell took Keefe to the surgeon, who sent him to the general hospital, because on account of his head trouble he was unfit to go on the march. The record shows Keefe was admitted to the hospital on account of syphilis, not head trouble.

Stephen Hampton and John Borden, neighbors, have testified that they were acquainted with Keefe before he entered the Army, when he appeared to be of sound mind; that on August 29, 1865, they visited Warren, Mass., on an excursion and there saw Keefe, who appeared to be wandering aimlessly about, acting strangely, talking incoherently, and seemingly not knowing what he was doing or where he was going. They notified a member of Keefe's family, who took him home to Ware, Mass.

D. W. Miner, M. D., of Ware, Mass., on June 13, 1889, deposed that he prescribed for Keefe in 1865 on account of intermittent fever, and also attended him for disease of lungs from May 7, 1880, to May 22, 1880, when he died. The effects of a wound on the head caused Keefe at times to be insane.

The papers in the case were referred to the acting Judge-Advocate-General U. S. Army, August 10, 1889, for his opinion as to whether or not the testimony is regarded as sufficient to warrant removal of the charge of desertion.

The judge-advocate in charge, on August 13, 1889, returned the papers, with the following opinion indorsed thereon:

"The evidence presented is not regarded by this (Judge-Advocate-General's) Office as sufficient to warrant the removal of the charge of desertion in this case. * *"

The Secretary of War, on August 14, 1889, concurred in the foregoing opinion.

It should be observed that, although this soldier was under constant observation by military medical officers for five months prior to his desertion, the official contemporaneous record does not indicate that he suffered from any disease other than syphilis.

No other testimony in this case has been submitted.

As it has not been established that this soldier was insane at the time of his unauthorized departure from the hospital, the application has been rejected by the War Department.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 95.

MARGARET KENNEDY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 982.]

The Committee on War Claims, to whom was referred House bill 982, submit the following report:

This is a bill to pay Margaret Kennedy, widow and sole executrix of the late John Kennedy, $10,476, less the amount paid her in pursuance of an act heretofore passed.

This bill, or one similar to it, was favorably reported to the House from the Committee on Claims on the 28th of January, 1891, and it was passed by the Senate on the 10th of May, 1891.

In the Fiftieth Congress a bill was passed directing the Quartermaster-General to ascertain "the value of all timber, fences, and fruit trees on the farm of John Kennedy, deceased, in the District of Columbia, upon which Fort Sedgwick was erected, taken and used by the Government for firewood and in the construction of said fort." The Quartermaster-General stated the value, which amounted in gross to $1,378.44, and this amount was paid.

The items given are 200 cords of wood; whereas the fact is there were 900 cords of wood taken, which, at $10 a cord, would amount to $9,000; 1,936 rails, 200 fruit trees, and timber for the fort. The wood is valued at $2 a cord, the fruit trees at $4 each, and the fence rails at 4 cents each, which would not pay for cutting and splitting, the timber for the fort at the gross sum of $101.

This farm was the sole property of the late John Kennedy. It was stripped of all that made it valuable, it was occupied during the pleasure of the Army, the owner was deprived of its use and income, and it was left in a condition that greatly depreciated its value. At that time firewood was worth $10 a cord; the timber, as it stood, was worth much more, for it gave value to the farm, and no one in the possession of such property would have consented to its indiscriminate destruction at any price. Four cents each for fence rails does not cover the cost of splitting, and they were the more valuable at that time, inasmuch as wire fencing was not then, as now, in general use. Four dollars each for 200 fruit trees did not bear any comparison to their value, estimating their planting and care and their past and future product.

No man would consent to have his fruit trees swept from his farm if the despoiler would offer ten times their value.

The committee submits that the sum paid the widow is not by any means adequate; that the Government in appropriating what she would not have voluntarily parted with, and in its occupancy and use of the place has incurred an amount of indebtedness which in justice it should satisfy.

The bill is reported favorably with a recommendation that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 96.

CARL F. KOLBE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4517.]

The Committe on War Claims, to whom was referred the bill (H. R. 4517) for the relief of Carl F. Kolbe, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 748, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2842) for the relief of Carl F. Kolbe, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own and report back the bill and recommend its passage.

[House Report No. 2439, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 7458) for the relief of Carl F. Kolbe, beg leave to submit the following report:

The claimant, Carl F. Kolbe, was a leader of band of the First Regiment of Virgina Volunteer Cavalry in 1861, and he was honorably discharged from the service.

Claimant raised, recruited, enlisted, organized, and drilled said band at Millersburg, Holmes County, Ohio, at the request and order and under the authority of Henry Anisunsel, colonel of said regiment.

The names of said recruits, members of the band, were Carl F. Kolbe (leader), Samuel Yates, G. W. Smailes, William H. Irvine, Henry Wolf, Milton Hall, John Foulks, John P. Larimer, George Parkinson, Jesse Kimerer, Joseph S. Lyons, Emuel Richards, John Stauffer, Judson A. Drake, Samuel Lemmon, B. Morris, Andrew Feisher.

The claimant made oath that while under the orders and authority of Col. Henry Anisunsel he was recruiting and drilling the members of the said band, he paid their board, and afterwards he paid for subsisting, lodging, and transporting the said band from Millersburg, Ohio, to Wheeling, W. Va., where they were mustered into service; that the sum of money so paid and expended by the claimant amounted to $164.95. The claimant also makes oath that he has not been reimbursed for the said sum of money so expended, or any part thereof, and the honorable Second Auditor of the Treasury, in a letter dated October 4, 1888, says: "The records of this office do not show the receipt of a prior claim in this case."

The committee recommend that the bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 97.

BETTS, NICHOLS & CO.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 69.]

The Committee on Claims, to whom was referred the bill (S. 69) for the relief of Betts, Nichols & Co., respectfully report:

That they have carefully considered the same and report it back to the House with the recommendation that it do pass.

Your committee adopt the Senate report, which is as follows:

The Committee on Finance, to which was referred bill (S. 69) for the relief of Betts, Nichols & Co., has considered the same and reports:

There was a favorable report upon this claim made by the chairman of this committee in 1884, and the same report was adopted by the committee in the Fifty-first Congress, and the bill passed the Senate, but failed of consideration in the House. The committee adopts the former report as follows:

This is a claim for the payment of draft No. 5453, issued by the assistant treasurer at New Orleans on Interior Department warrant No. 4801, to Sampson & Hendricks, March 1, 1860, for $250, originating out of mercantile transactions prior to the recent war, which draft remains unpaid in consequence of the inability of the payees to prove the loyalty of the drawer, according to the joint resolution of March 2, 1867 (sec. 3480, R. S.).

The draft was indorsed in blank, and is now held by F. B. Betts, the surviving partner of Betts, Nichols & Co.; and although it appears that great remissness occurred on the part of Betts, Nichols & Co. in the presentation of the claim, it having been first presented in June, 1870, again in March 1874, and lastly in January, 1884; yet as there does not appear to be any doubt in relation to the loyalty of the payees, the parties really in interest, it is difficult to see why the claim should be refused.

As these facts appear from the subjoined letter from the Treasury Department, which is appended hereto and made a part of this report, the committee recommend that the bill pass as amended.

TREASURY DEPARTMENT,
OFFICE OF THE FIRST AUDITOR,
Washington, D. C., January 18, 1884.

SIR: Referring to the letter of Senator McPherson, of January 16 instant, addressed to you and by you sent to this office, in which he asks to be advised of the reasons why the claim of Betts, Nichols & Co., for the payment of a certain draft can not be allowed, I have the honor to report as follows:

Under date of March 1, 1861, draft No. 5453, on Treasury-Interior warrant No. 4801, for $250, was issued in favor of Sampson & Hendricks upon the assistant treasurer of the United States at New Orleans.

The draft is indorsed in blank by the payees.

In June, 1870, the draft was sent to this office and claim made for payment by Betts, Nichols & Co.

June 20, 1870, the claimants were informed by the First Auditor that it would be necessary, before payment could be made, to prove the loyalty of the payees and of the present holders of the draft, under the joint resolution of March 2, 1867 (now *section 3480, Revised Statutes).*

June 21 the claimants reply, stating that they can not prove the loyalty of Sampson & Hendricks, but presume it will be sufficient to prove their own loyalty.

June 12 the Auditor again writes that the requirements of his letter of the 20th must be complied with before the draft can be paid.

This office is not aware of any similar cases that have been favorably acted upon by Congress.

I return herewith the letter of Senator McPherson with the inclosures (4).

Very respectfully,

R. M. REYNOLDS,
First Auditor.

Hon. CHARLES J. FOLGER,
Secretary of the Treasury.

The committee recommends the passage of the bill.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 98.

MRS. ADELIA S. FERRIS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SNOW, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1738.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1738) granting a pension to Mrs. Adelia S. Ferris, submit the following report:

The evidence shows that Mrs. Adelia S. Ferris is 69 years old; that she became a widow in 1858, and has never remarried; that she was duly commissioned as a nurse and served as such from the fall of 1861 until the summer of 1864. That she served in the military hospital at St. Louis, Mo., is shown by the certificate of James E. Yeatman, president of the Western Sanitary Commission, and agent for Mrs. Dorothea L. Dix, superintendent of nurses in the United States, for the employment of nurses in the military hospitals.

The evidence further shows that Mrs. Ferris received a compensation of $12 per month for her services as nurse and gave up her employment as such because of ill health.

It further shows that her little property was totally consumed in the great fire at Chicago, and that her commission as nurse was at that time destroyed.

The claimant in her affidavit refers to the pay rolls of the War Department for further evidence, and states that she is dependent solely upon her own efforts for a livelihood.

In view of the facts above stated your committee returns the bill with the recommendation that it do pass, with the following amendment:

In line 6 strike out the word "twenty-five" and insert the word "twelve."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 99.

COL. DANIEL McCLURE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. OUTHWAITE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 972.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 972) for the relief of Col. Daniel McClure, submit the following report:

The matters now brought to the attention of Congress in connection with the bill under consideration have heretofore received examination by the Court of Claims, in its examination of the case of Col. McClure under the authority conferred by an act entitled "An act for the relief of Col. Daniel McClure," approved February 24, 1874 (18 Stats. at Large, Pt. III. p. 531).

The Court of Claims allowed Col. McClure only partial relief. The court there held that under the provisions of the act conferring jurisdiction to hear said case the court could not afford relief to Col. McClure upon equitable as distinguished from legal considerations. The court therefore relieved him from his losses, to the extent of allowing him credit for the moneys captured and taken from his office by the public enemy at New Orleans, La., and San Antonio, Tex., at the time of the surrender of Gen. Twiggs, in February, 1861.

The Court of Claims having refused to find certain facts which presented equitable considerations and grounds of relief, the case was appealed to the Supreme Court, where Col. McClure renewed his efforts to secure from the Court of Claims, upon an order to be made by the Supreme Court, certain additional findings which would show equitable grounds for his relief. The Supreme Court, in denying the motion made in that court on behalf of Col. McClure for such findings as would present the equitable features and considerations involved in a proper decision of his case, used the following:

As to the proposed findings, with a view to ascertaining the existence of "just and equitable grounds for credits claimed," they are clearly immaterial for the purpose of a judicial determination of the rights of the parties. At most they would only show that McClure had been compelled to conduct his business under very unfavorable circumstances; that the amounts disbursed by him had been large; that much of his business had necessarily been done by his clerks, upon the accuracy of whose statements and calculations he was compelled in a great measure to rely; that with the exception of the present differences his accounts had always been found correct; that he had sometimes given receipts in advance of the time he had actually got the money, and by reason of the limited facilities for transacting business in his office it was possible for a receipt to be got without the money being actually paid over; that there had been great delay in advising him of the errors in his accounts, and things of like character. These are facts proper for the consideration of Congress on an application by McClure for legislative action in his favor." (Claimant's memorial, pp. 50, 51.) See Daniel McClure *v.* United States (116 U. S., 145-154.)

The Supreme Court having declared in the above opinion that the equitable considerations upon which he relied in the Court of Claims were appropriate for the consideration of Congress, Col. McClure sought relief here; and heretofore, in the Committees on Military Affairs of both Houses of Congress, the justice of his appeal has been fully recognized.

Bills for the relief of Col. McClure have been several times favorably reported to and passed by the Senate, the last bill so reported and passed being the one now under consideration.

Bills having the same purpose as that now under consideration received the favorable action of this committee in the Forty-ninth and Fiftieth and Fifty-first Congresses.

The facts of the case are briefly as follows, viz:

Col. McClure graduated from West Point in 1849. He subsequently resigned from the Army and engaged in civil pursuits. In October, 1858, he was appointed paymaster in the Army, and during the period of his military service he was three times brevetted for faithful and meritorious service; and in 1866 he was appointed an assistant paymaster-general, with the rank of colonel. He was retired on the 30th of December, 1888.

During the period of his important and long continued service his accounts show that he disbursed more than $126,000,000.

During the period from his appointment to the date of his retirement, notwithstanding the large amounts of public moneys received and disbursed by him as above stated, there has been no discrepancy in his accounts, except such as will now be stated, and because of which the bill for his relief is presented for the consideration of Congress.

The first discrepancy occurred in February, 1861, when he was stationed in Texas. The amount was $1,000.

The next occurred in April, 1862, when he was stationed in Washington City, and when moneys were received to make numerous payments daily to individual soldiers, and on other accounts. Another, amounting to $25,000, occurred on the 9th of September, 1862, and another of $4,933.06 on the 26th of September, 1862, when he was stationed at Indianapolis. These last two, and the principal discrepancies, occurred in the month of September, 1862, the most active period of the war, when he was in charge of a pay district embracing the States of Indiana, Illinois, Wisconsin, Michigan, and Ohio.

These losses occurred in a time of very great official pressure upon Col. McClure. He was disbursing each month very large sums of money, and he had very meager and limited facilties for the transaction of his immense business and the discharge of his important and burdensome duties.

Without entering into details of facts on this report (for which reference is made to previous reports), your committee now state that they have carefully examined into facts, and as the result of such examination report that they are thoroughly satisfied that the loss of said sums with which Col. McClure is now charged was not due to any want of integrity on the part of Col. McClure.

They are satisfied that no part of said moneys was appropriated by him to his own use, directly or indirectly; they do not impute the loss of said sums to any want of integrity on the part of any of his official subordinates or clerks, but to the conditions, confusion, and circumstances at the time these losses occurred; of his strict integrity your committee entertain no doubt.

The loyalty and devotion of Col. McClure to the Government is evi-

denced by the fact that when Gen. Twiggs surrendered he succeeded at much inconvenience and peril in bringing away from Texas $40,000 in gold belonging to his Government, and by this exercise of judgment and prudence prevented its falling into the hands of those who were arrayed against his Government.

Your committee are convinced of Col. McClure's integrity in respect of these losses. They are satisfied that he did not in any way profit by them. They are not willing to impute to Col. McClure willful negligence or disregard of official duty in connection with the loss of said funds. His long and honorable service, his fidelity to every official duty, his unwavering devotion to his country in the hour of her greatest need and peril, and his integrity repel any such conclusion.

Your committee therefore report that the said bill for the relief of Col. McClure is just, and earnestly recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 100.

AARON J. OLIVER.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ROCKWELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2049.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2049) for the relief of Aaron J. Oliver, having considered the same, respectfully report:

Aaron J. Oliver was mustered into service December 10, 1861, as second lieutenant of Company E, Ninety-first New York Volunteers, and is reported present with his regiment to March 9, 1863, when, on the recommendation of his regimental, brigade, and division commanders he was dishonorably discharged for "having three times offered his resignation in the presence of the enemy."

From a careful examination of the evidence offered on behalf of Lieut. Oliver, your committee are of the opinion that the said charge was false. It appears from the testimony of his fellow officers that he was a capable, faithful, and efficient officer, and that his dismissal was cruel and unjust, and was the result of malice toward him on the part of his commanding officer, Col. Jacob Van Zandt, who was himself, in the following November (1863), tried by general court-martial for "conduct unbecoming an officer and a gentleman," conduct "to the prejudice of good order and military discipline," and "disrespectful language towards his superior officers," and sentenced to be dismissed the service.

Said sentence was mitigated by the President to six months suspension, but he was afterward, and on February 2, 1865, dishonorably dismissed the service.

We append hereto as a part of this report letter from the War Department of date June 6, 1890, affidavit of Gen. John Palmer, commander-in-chief of the Grand Army of the Republic, and a letter of Col. J. Tarbell, late First Deputy Comptroller of the Treasury, both fellow-officers of Lieut. Oliver.

Your committee therefore recommend that the bill pass.

Tioga County, State of New York, ss.:

The undersigned, being duly sworn according to law, deposes and says: That he was formerly a lieutenant of E Company, 91st New York Volunteer Infantry; that he was dishonorably discharged the service of the United States in March, 1863, by *reason of a misrepresenting indorsement of* Van Zandt, colonel 91st New York Vol-

unteers, then acting brigade commander; and he now, under oath, offers for the first time the true reasons and circumstances connected with his case.

He first offered his resignation as such lieutenant while his regiment lay at Key West, Fla., and with no enemy opposing or threatening it, and with absolutely no prospect of an engagement with such enemy. This resignation was offered, together with the resignations of ten other officers of the regiment, because military life with Van Zandt was unbearable, owing to his ignorance, gross intemperance, and partiality among the officers and men, encouraging and building up cliques and strife by marked and offensive partiality of favors or oppression.

Col. Van Zandt sought to persecute particularly several officers of the regiment, myself among them, who had belonged to an organization known as "Cole's Columbia County Regiment." This battalion was consolidated with another fraction recruited by Van Zandt, and thus the 91st New York Volunteers was formed.

It will be noticed that this was the *first* time resignation was offered by me. The next and the *last* time my resignation was offered was in March, 1863. I had tried repeatedly to secure leave of absence from duty for a limited time in order to attend to some pressing, imperative business at the North, so important that only myself could attend to in person, and each time I had been met with prompt refusal, offered in a contemptuous and insulting manner. These applications failing of success, I was, owing to the urgency of the business alluded to, finally forced to offer my resignation, and did so.

It was accepted, with the indorsements of all the commanders procured by Van Zandt's vile and scurrilous misrepresentations of me, made and procured without my knowledge, and with no opportunity offered me either of defense or denial.

I repeat that I never offered my resignation in the face of the enemy, nor "when about to move against the enemy;" that it was offered *twice* only as above explained; that I at no time while in the service was moved to offer my resignation by reason of cowardice, as is intimated by the indorsement of Van Zandt; that my loyalty, my personal courage, my love of country and of duty, my zeal as a soldier, stood all unchallenged until March, 1863, and they have never been questioned since.

AARON J. OLIVER.

Dated at Owego, Tioga County, New York, this the 3d day of May, 1880.

Sworn to and subscribed before me, by Aaron J. Oliver, this the 3d day of May, 1880.

[SEAL.] JNO. C. GRAY,
Clerk of Tioga County, State of New York.

WAR DEPARTMENT,
Washington City, June 26, 1890.

SIR: In reply to your communication of the 20th instant, received in this Department on the 23d instant, requesting the military record of Col. J. Van Zant, late of Ninety-first New York Volunteers, I am directed by the Secretary of War to inform you that the records show that Jacob Van Zant was mustered in as colonel Ninety-first New York, December 16, 1861; that he was tried by general court-martial, convened in the Department of the Gulf, in November, 1863, for "conduct unbecoming an officer and a gentleman," conduct "to the prejudice of good order and military discipline," and "disrespectful language toward his superior officers," of all of which he was convicted and sentenced to be dismissed the service; but the sentence was mitigated by the President to suspension from rank and emoluments for six months.

He was dishonorably dismissed the service February 2, 1865, in orders from this Department, for "interfering with the discipline of the Ninety-first New York Volunteers, by ordering enlisted men thereof, who were undergoing punishment, to be released, and advising a noncommissioned officer not to obey the orders of the lieutenant-colonel commanding the regiment, pleading drunkenness as an excuse therefor.

"This whilst said Van Zandt was not on duty nor in command of his regiment."

Very respectfully,

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S Army.

Hon. T. S. FLOOD,
House of Representatives.

STATE OF NEW YORK, *City and County of Albany, ss:*

John Palmer, being duly sworn, deposes and says that he served in the 91st Regiment N. Y. Vols. from Sept. 10th, 1861, to July 3, 1865, at which date the regiment was mustered out of service at Albany, N. Y.; that this deponent distinctly remembers Lieut. A. J. Oliver, of said regt., as a capable officer and a man of character and good habits; that this deponent does not now remember the exact details of the case *that led to his dismissal*; he does remember that it was the general opinion amongst

officers and men of said regiment that the dismissal of said Oliver was cruel and unjust, and the result of a personal feeling against him on the part of the commander of said regiment; that the deponent further says that he served in said regt. in the several grades from private to capt., and since the war he has been located at No. 25 Washington ave., Albany, N. Y., in business; that since the close of the rebellion he has been twice elected department commander of the G. A. R. of New York State, and in 1879 was elected senior vice comd. in chief G. A. R.; for the past nine years has been one of the trustees of the New York State Soldier Home, and is at present chairman of the executive com. of said home; that the only interest this deponent has in this matter is to render an act of justice to a faithful officer and a good citizen.

JNO. PALMER.

Sworn to before me this 25th day June, 1890.

WM. SERVISS,
Com'r of Deeds.

ALBANY CITY AND COUNTY, *ss:*

John S. Hutman, being duly sworn, deposes and says that he was a first lieutenant in the 91st N. Y. Vols., and served in said regiment from its organization and until the regiment was mustered out; that he has read the foregoing affidavit of Capt. John Palmer and the same is true in every particular.

JOHN S. HUTMAN.

Sworn to before me this 26th day of June, 1890.

WM. SERVISS,
Com'r of Deeds.

ALBANY CITY AND COUNTY, *ss:*

Charles O. Herman Loeper, being duly sworn, deposes and says that he served in the 91st Regiment N. Y. Vols. from its muster into the service in 1861, and was mustered out with the regiment July 3, 1865; that he held the rank of second lieutenant in said regiment; that he read the foregoing affidavit of Capt. John Palmer, and that the same is true in every particular.

CHAS. O. HERMAN LOEPER.

Sworn to before me this 26th day of June, 1890.
[SEAL.]

C. H. ZEILMAN,
Notary Public.

STATE OF NEW YORK, *County of Albany, ss:*

George W. Hobbs, being duly sworn, deposes and says that he served as second and first lieutenant, and captain of company, in the 91st Regiment N. Y. S. Volunteers, between Sept. 24th, 1861, and July 3d, 1865.

Has read Capt. John Palmer's affidavit, and to the best of his knowledge and belief knows same to be true in all particulars.

GEORGE W. HOBBS.

Sworn to before me this 27th day of June, 1890.

FRANK A. TREADWELL,
Notary Public.

STATE OF NEW YORK, *County of Albany, ss:*

James A. Shattuck, being duly sworn, deposes and says, viz, he served as second and first lieut., 91st N. Y. Vet. Vol. Inft., between August, 1861, and July, 1865; have read Capt. Jno. Palmer's affidavit as above, and to the best of his knowledge and belief the same is true in all particulars.

JAMES A. SHATTUCK.

Sworn to before me this 1st day of July, 1890.
[SEAL.]

CHARLES E. WOLFE,
Notary Public, Albany Co., N. Y.

STATE OF NEW YORK, *County of Albany, ss:*

Edward G. Sherley, being duly sworn, deposes and says that be served in the 91st Regt. New York Vols. as quartermaster sergt., second and first lieuts., between December, 1861, and May, 1865; that he was acquainted with Lieut. Oliver, and that he knew of there being some personal feeling between Oliver and the colonel commanding; that he believes Oliver to have been a capable and conscientious officer. The deponent further says that he has now in his possession a letter written by himself on the 10th and 11th of March, 1863, from Baton Rouge, La., to his parents, and that this paragraph occurs in that letter: "2d Lieut. Oliver has been dismissed by Gen'l Banks for persisting in offering his resignation."

Deponent further says that the records show that Oliver was dismissed March 10, 1863.

EDWARD G. SHERLEY.

UNITED STATES OF AMERICA,
State of New York, County and City of Albany:

On this first day of July, 1890, before me, a notary public in and for said county and city, personally appeared Mr. Edward G. Sherley and declared the above a true statement, and subscribed and signed by him in my presence.

In witness whereof, I have signed my name and affixed my official seal, at the year and date above mentioned.

[SEAL.]

WM. A. FREY,
Notary Public.

OCTOBER 27, 1864.

Aaron J. Oliver, of Albany, N. Y., was formerly lieutenant in the Ninety-first New York Volunteers, dismissed the service upon a false statement made against him which he had no opportunity to disprove, having been dismissed the service without a hearing, now desires to be restored or have a trial, so that he may wipe out the disgrace of dismissal.

It affords me great pleasure to certify to Lieut. Oliver's character as an officer and a gentleman; to his good conduct, his fidelity, and his correct deportment at all times. A capable, faithful, zealous officer, his dismissal was unjust to him and a loss to the service. I hold myself in readiness at all times to testify under oath as to Lieut. Oliver's merits and claims to favor, hoping he may be relieved from an unmerited stigma and the service receive back a valuable officer. The accusation against him was not merely false but based on personal hostility.

J. TARBELL,
Lieut. Col. 91st N. Y. Vols.

I fully concur with the above statement and will testify to the truth of it.

J. W. FELTHOUSEN.
Capt., 91st N. Y. V.

WASHINGTON, D. C., *February 21, 1880.*

The foregoing statements with reference to Lt. A. J. Oliver, made in 1864, are renewed and repeated, and, if necessary, will be made under oath. His case is earnestly commended to favorable action.

J. TARBELL,
Late Col. 91st N. Y. V. V.,
Bvt. Brig. Gen., U. S. V.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 101.

JANE ALLEN.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CURTIS, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1078.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1078) granting an original pension to Jane Allen, submit the following report:

It appears that Jane Allen was the stepmother of Edwin W. Allen also called William E. Allen, who enlisted in Company L, Eighty-third New York Infantry, on July 24, 1863, and was killed in action at Wilderness, Va., May 6, 1864. Said soldier was born January 21, 1838, and his mother, Sarah A. Allen, died April 22, 1838. On January 1, 1846, William Gilbert Allen, the father of the soldier, married Jane Forsyth, who is the present claimant, and said father died November 5, 1846. It is shown in evidence that the soldier regarded and treated the claimant, his stepmother, as if she were his own mother; that he contributed to her support and expressed his intention of continuing to care for her welfare. It is also shown that the claimant cherished and cared for the soldier during his childhood, as if he had been her own son.

It is alleged that the soldier left no widow or minor child surviving him, and it appears that the beneficiary named in this bill is now about 70 years of age.

Your committee returns the bill with the recommendation that it do pass with the following amendment: Insert after line 5 the following words, "at the rate of twelve dollars per month."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 102.

WILLIAM D. WILSON.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1085.]

The Committee on War Claims, to whom was referred the bill (H. R. 1085) for the relief of the heirs of William D. Wilson, deceased, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 791, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1353) for the relief of William D. Wilson, respectfully report as follows:

This claim was favorably considered by the Committee on War Claims of the Forty-ninth and also Fiftieth Congress, as is shown by the following report, No. 58, first session, Fiftieth Congress:

The facts out of which this claim for relief arise will be found stated in House report of the Committee on War Claims of the Forty-ninth Congress, a copy of which is hereto annexed.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report.]

The proofs show that the United States Government, through its proper officers, contracted with and did rent of William D. Wilson, of Vicksburg, Miss., from February 1 to December 31, 1864, inclusive, for a period of eleven months, one two-story brick store on Washington street, in the city of Vicksburg, Miss., nine months of which time at $100 a month and the remaining two months at $50 a month, amounting to $1,000; also one brick store in Vicksburg, Miss., used as a warehouse, for a period of four months, at $50 a month, from January 1, 1865, to April 30, inclusive, of the same year, amounting to $200.

Vouchers in duplicate were given to cover the entire period above stated, those for the two-story brick store being signed by William D. Earnest, captain and assistant quartermaster, and those for the brick store by R. B. Hatch, captain and assistant quartermaster.

The signatures to these vouchers have been compared by the Second Auditor of the Treasury with other signatures to vouchers on file in that office, and they are believed to be genuine.

It further appears by the finding of a military commission convened at Vicksburg, Miss., November, 1863, for the condemnation of the property of disloyal citizens, "that the claimant (*William D. Wilson*) was decidedly loyal. We therefore recommend *that he be allowed to remain in possession* and control of his property." The

proceedings and findings of said commission were approved by the following indorsement:

HEADQUARTERS SEVENTEENTH ARMY CORPS,
Vicksburg, Miss., November 21, 1863.

Proceedings and recommendation of the commission approved and confirmed. The petitioner will be allowed control of the property within described, unless needed for military purposes.

By order of Major-General McPherson.

W. T. CLARK,
Assistant Adjutant-General.

In the opinion of the proper officers, it would seem this property was needed for military purposes, and was used as such.

Therefore your committee, after careful examination of the claim, are fully satisfied that there is due and unpaid William D. Wilson, the claimant, for rent of one two-story brick store, and brick store used as a warehouse (both in the city of Vicksburg, Miss.), the sum of $1,200, and report the accompanying bill for his relief, and recommend its passage.

Your committee adopt the foregoing report as their own; with the additional suggestion that it would appear that this claim was not allowed by the Quartermaster's Department for the reason "that the decisions of the War Department prohibit the payment of rent in States proclaimed to be in rebellion previous to the proclamation of the President in April, 1866."

Your committee therefore report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 103.

HEIRS OF JOHN H. JONES, AND HEIRS OF THOMAS D. HARRIS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3509.]

The Committee on War Claims, to whom was referred the bill (H. R. 3509) for the relief of the legal representatives of John H. Jones and Thomas D. Harris, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 203, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2239) for the relief of the heirs of John H. Jones and of the heirs of Thomas D. Harris, report as follows:

That the said John H. Jones and Thomas D. Harris, doing business under the firm name of Jones & Harris, were the owners of and were operating a certain rolling-mill property, fixtures, and interests at Loudon, Tenn., and were engaged in the manufacture of iron at the breaking out of the war, April, 1861. That said John H. Jones and Thomas D. Harris were loyal citizens to the United States Government, and that in obedience to the proclamation of President Lincoln, issued in 1861, forbidding any aid to be given to the Confederate government, they ceased operating said mill and were forced to leave said locality.

In March, 1863, all of said property mentioned in the affidavit of John H. Jones was taken by the Confederate army under the command of Gen. Kirby Smith, and said rolling mill, together with the fixtures, ores, and iron, were removed to Knoxville from Loudon, and at that place the mill was reërected and put in shape for operation.

In August, 1863, Gen. Burnside, in command of the Federal forces, entered Knoxville and took possession, and among other property which fell into the control of the Federal force was this property of the claimants. For nearly two years the Federal forces, under a detail from Burnside's army, occupied and operated said rolling mill and used and enjoyed the product of the same for the benefit of the United States Government.

The committee, therefore, in view of all the facts presented, finds that there is justly due the said claimants the sum of $21,627.75.

Your committee, therefore, report back the bill and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 104.

ROBERT CASEY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1292.]

Your committee having under consideration the bill (H. R. 1292) for the relief of Robert Casey, submit the following report:

From the record furnished the committee by the War Department, and from the affidavit of the petitioner and others as appears in the records, which records are hereby made part of this report, it appears that Robert Casey was enlisted as a private in Company G, Second New York Volunteer Infantry, May 14, 1861, and served for about two years. He served faithfully until October 30, 1862, being a year and five months, nearly, when he was sent to the hospital; was transferred in November, 1862, to Summit House General Hospital. It further appears that the soldier's family, consisting of wife and four children, all small, were in destitute circumstances; that during her husband's enlistment one of her children died and another was born. Being without means of support the wife went to Summit House Hospital and persuaded her husband to leave the hospital; and he did leave, getting a situation at the Fairmount Iron Works, and from that time supported her and his family.

In view of all the circumstances of this case the committee recommend that the bill be amended by adding the following words: "Provided that no pay or emoluments shall become due by virtue of this act subsequent to May 10, 1863," and recommend that the bill as amended do pass.

PETITION OF ROBERT CASEY.

To the honorable the Senate and the House of Representatives of the United States of America in Congress assembled:

Your petitioner, Robert Casey, whose post-office address is New Castle, in the County of Lawrence and State of Pennsylvania, respectfully represents that he was color corporal in Company G, Second Regiment (Troy) New York Volunteer Infantry; that at the battle of Second Bull Run, in 1862, petitioner was injured and sent to the Summit House Hospital, Philadelphia, Pa., and had had no pay for six months from the United States in pay for his services as a soldier, and while in said hospital his wife came from Troy, N. Y., with four small children, and had no income of any kind except her own labor and the wages of affiant, which he had not received for six months as aforesaid. He therefore, without leave, left said hospital and went to

work to support his family, in Fairmount Rolling Mill, Philadelphia, Pa., and is now marked "deserter" on the rolls in the Adjutant-General's Office, Washington, D. C.

He most respectfully asks your honorable bodies to pass an act removing the charge of desertion from his record, in order that justice may be done him and his children may have an honorable name hereafter.

And he will ever pray, etc.,

ROBERT CASEY.

STATE OF PENNSYLVANIA,
Lawrence County, ss.

And now, to wit:

August 2, A. D. 1890, personally appeared the above-named Robert Casey, who, being duly sworn, saith that the statements set forth in the above petition are true to the best of his knowledge and belief.

[SEAL.] J. H. GILLILAND,
Prothonotary.

Case of Robert Casey, late private Company G, Second New York Volunteer Infantry.

RECORD AND PENSION DIVISION.
January 22, 1892.

Robert Casey was enrolled as a private in Company G, Second New York Volunteers, May 14, 1861, for two years, and served faithfully until October 30, 1862, when he entered the regimental hospital with phlegmon and diarrhea. He was transferred November 1, 1862, and on the 15th of the same month was again transferred to Summit House General Hospital, West Philadelphia, Pa., with variocose veins. In the column of "Remarks" on the register of that hospital there appears opposite his name the word "deserter," but the date of desertion is not shown.

The company muster-out roll, dated Troy, N. Y., May 26, 1863, shows him to have been dropped as a deserter May 10, 1863.

No application for removal of the charge of desertion has been filed in this Department by the soldier, but the following testimony in his behalf has been presented:

Sarah Casey, aged 54 years, wife of the soldier, in an affidavit dated August 30, 1890, declared, under oath, that during the term of her husband's enlistment one of her children died and one was born; that being without means of support she went to Summit House Hospital, Philadelphia (date not stated), there found her husband and asked him to support her; that he replied that he had not received any pay from the United States for six months, and that he thereupon left the hospital and went to work at Fairmount Iron Works, Philadelphia, from that time supporting her and his family. Affiant further declares that it was through her fault that the soldier left the service.

Peter Hart, aged 70 years, father of the last affiant, under date September 15, 1890, declared, under oath, that sometime about the early part of 1862 Mrs. Casey came to his house at Brier Hill, Ohio, with four small children and in destitute circumstances; that he took care of her and the children for some considerable time, and finally gave her money to go back to Troy, N. Y.; that sometime after he received a letter from her asking for help and he sent her $5, and that the next he heard of her was that she had gone to Philadelphia and persuaded her husband to leave the hospital, her children being in want, she unable to support them, and the soldier having received no pay from the United States for six months.

The above affidavits were forwarded to the Department through Hon. Chas. C. Townsend, M. C., and on the 23d of September, 1890, that gentleman was informed that in the absence of any application and sworn statement by the soldier, and of any testimony tending to controvert the affidavit of his wife, the case appeared to be one of willful desertion, and the charge consequently could not be removed, or a discharge be issued, under existing law.

Since the date of that communication the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

WAR DEPARTMENT,
Washington City, September 23, 1890.

SIR: Referring to your communication of the 17th instant (received to-day), in the case of Robert Casey, late member of Company G, Second New York Infantry Volunteers, I am directed by the Secretary of War to inform you as follows:

The record shows that this soldier was enrolled on May 14, 1861, to serve two

years; was admitted to a hospital at Philadelphia, Pa., on November 15, 1862; and is reported on the records of that hospital as having "deserted" (date of desertion not being stated). Subsequent to his desertion (which occurred probably in November or December, 1862) he did not return to hospital or to his command, although he owed service until May 26, 1863, when his company was mustered out of service.

The affidavits filed by T. B. Morgan, of New Castle, Pa. (which accompanied your letter), set forth that this soldier, at the instance of his wife, left the hospital and service in order to work in the Fairmount Iron Works, because he had not received his pay from the Government for several months past.

In the absence of any application and sworn statement from the soldier, and of any testimony tending to controvert the recent affidavit by his wife, it appears to be a case of willful desertion, and the charge can not be removed, or a discharge issued, under existing law.

Very respectfully,

F. C. ANISWORTH,
Captain and Assistant Surgeon, U. S. Army.

Hon. CHARLES C. TOWNSEND,
House of Representatives.

NEW CASTLE, LAWRENCE COUNTY, PA.,
September 19, 1890.

ADJUTANT-GENERAL NEW YORK:

SIR: In 1861 a regiment of volunteer infantry went to the front under the name of the Second Regiment (Troy) New York Volunteer Infantry. Will you please inform me what number this regiment had in the United States service. Information is wanted by our Congressman, C. C. Townsend, in his effort for removal of charge of desertion by Congress.

Please reply at once.

Respectfully,

T. B. MORGAN.

NEW CASTLE, PA., *September 23, 1890.*

SIR: You will see by the inclosure that Robert Casey belonged to Company G, Second Regiment New York Volunteer Infantry; that he enlisted in May, 1861, for two years; that at the time he left the hospital at Philadelphia, in the fall of 1862, after the battle of Second Bull Run, where he was injured, he had but a few months to serve to complete his term of enlistment.

Respectfully,

T. B. MORGAN.

Hon. C. C. TOWNSEND, M. C.,
Washington, D. C.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 105.

JEROME H. BIDDLE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PATTON, from the Committee on Military Affairs, submitted the following.

REPORT:

[To accompany H. R. 3310.]

From the record furnished your committee from the War Department it appears that the said Jerome H. Biddle, late of Company K, Seventh Kentucky Cavalry Volunteers, was a minor enlisting at the age of 16, in July, 1862, and was mustered into the service August 16, 1862. The rolls of the company go to show that he was a corporal, deserted October 15, 1862, from Camp Chase. The muster-out roll of the company, dated July 10, 1865, reports him killed in battle at Richmond, Ky., August 30, 1862, and he was so reported in the list of casualties in the regiment for 1862. The company descriptive books show that William Biddle, private (name changed to Jerome H. Biddle), was killed in battle at Richmond. The regimental report returned for February, 1863, reports him deserted August 20, 1862, at Richmond, Ky. The War Records bear his name on the list of the prisoners of war at the headquarters of the Army of Kentucky, April 16, 1862, and show him to have been captured and paroled by Gen. E. Kirby Smith during the month of August, 1862.

The facts appear to be that he was taken prisoner August 30, 1862, was paroled September 2, 1862, and then went home, where he afterwards received word that his command was at Louisville, Ky., and that he must report there; that he promptly reported and was urged by his captain to violate his parole and take up arms again, but he refused to do so and returned to his home; that his father would not let him return.

From the evidence presented, your committee recommend that this bill be amended by adding the following lines: "*Provided*, That no pay or emoluments shall accrue by virtue of this act," and that the bill as so amended do pass. The military record furnished the committee is hereby made part of this report.

Case of Jerome H. Biddle, late of Company K, Seventh Kentucky Cavalry Volunteers.

RECORD AND PENSION DIVISION, *January 25, 1892.*

Jerome H. Biddle was enrolled in Company K, Seventh Kentucky Cavalry, July 20, 1862, to serve three years, and mustered into service August 16, 1862, as a corporal.

The company muster roll for January and February, 1863, reports him "Corporal, deserted October 15, 1862, from Camp Chase." His name is not borne on subsequent

rolls, to June 30, 1865. The muster-out roll of the company, dated July 10, 1865, reports him "Killed in battle at Richmond, Ky., August 30, 1862," and he is so reported on a list of casualties in the regiment for 1862.

The company descriptive book shows *William* Biddle, private (name changed to Jerome H. Biddle) "Killed in battle August 30, 1862, at Richmond, Ky.;" also, Jerome H. Biddle, corporal, "Deserted October 15, 1862, at Camp Chase, Ohio." The regimental return for February, 1863, reports him "Deserted August 30, 1862, at Richmond, Ky."

The prisoner-of-war records bear his name on a list of prisoners (dated, Headquarters Army of Kentucky, September 18, 1862), which shows him to have been captured and paroled by Gen. E. Kirby Smith during the month of August, 1862. The exact dates of capture and parole are not stated.

Under date July 20, 1887, the soldier made application for removal of the charge of desertion and for an honorable discharge, declaring, under oath, that in the summer of 1862 the officers and many enlisted men of the company of home guards to which he belonged enlisted in the Seventh Kentucky Cavalry, and he asked his father for a "certificate of consent" (he being a minor), in order that he might accompany them, but that his father would not give it; that in July, 1862, while with his company of home guards helping to drive John Morgan out of the State, he fell in with his former comrades, near Paris, Ky., and enlisted; was soon after engaged in the battles of Big Hill and Richmond, Ky.; was taken prisoner in the latter battle, August 30, 1862, and was paroled by the rebels under Kirby Smith, September 2, 1862, and then went home; that shortly afterwards he received word that his command was at Louisville and that he must report there; that he promptly reported and was urged by his captain to violate his parole and take up arms again, but refused to do so and returned to his home, there being no place of rendezvous for the men in the State, as the rebels held all but a few river towns; that the rebels then came and took possession of his father's house and the country round about, and rebel scouting parties scoured the country and arrested and carried off some of his paroled comrades; that his father became alarmed about him and wished him to go to Indiana, and that he thereupon went to Montgomery County, in that State, it being well known by his comrades who were at home on parole where he was; that he reported back as soon as he got to Indiana, and was prepared to return as soon as notified; that about this time his stepmother, who was very sick, becoming troubled about him, his father wrote him, saying that if he would consent to stay out he would stand between him and all danger; and that also about that time one of the men of his regiment, which had been called into camp at Frankfort, Ky., a neighbor of his, wrote him from that place, advising him to stay out of the service; that he corresponded regularly with his comrades, never received any notice to return, and thought everything was all right; that his father came to Indiana and moved thence to Macon County, Ill., and that he worked on his father's farm and went to school until the autumn of 1864, when he went back to Kentucky on business for his father, with his old captain, sojourning there two months; that he never made any effort to get out of the service or to hide himself, and that his father never tried to have him honorably discharged, as he should have done.

John P. Biddle, jr., a brother of the applicant, testified under oath March 10, 1887, that the soldier, at the age of 16, while, as a home guard, he was after John Morgan, enlisted in the United States service, but without the knowledge or consent of his father, who was opposed to his going into the service and took him out the first opportunity, though he neglected to compel his officers (who were neighbors and acquaintances of his family, and knew the father's wishes in the matter) to give him an honorable discharge; that applicant never made any effort to get out or to stay out of the service, or to hide himself; that his father promised to shield him from all danger if he would stay out, and that applicant's officers, knowing the circumstances, never molested him.

Matthew R. McDowell, late first lieutenant, Company K, Seventh Kentucky Volunteer Cavalry, in an affidavit dated February 10, 1887, declared that he was acquainted with applicant prior to his enlistment in the United States service, and knew that he was a minor, and that his father was against his going into the service; that applicant came to the camp in July, 1862, and enlisted there; that Capt. Price, of said company, had him entered on the company rolls as 18 years of age, when he should have entered him as 16; that while applicant was on parole his father came to Louisville and took him out of the service, in October, 1862, and prevented him from returning to his command; that this action made Capt. Price "mad," and he had applicant entered as a deserter, against affiant's protest; that applicant did not attempt to desert or to hide himself, but corresponded with his comrades in the company to which he belonged.

Oliver S. Moore, late sergeant, Company K, Seventh Kentucky Volunteer Cavalry, declared under oath, July 5, 1887, that he was personally acquainted with the applicant and his family prior to his entering the United States service; that after

the enlistment of his next eldest brother, William Biddle, in 1861, the applicant (Jerome), then under 16 years of age, was the oldest left at home, and was the mainstay of his father on the farm; that while applicant was out with home guards after John Morgan, in July, 1862, he enlisted in Company K, at Camp Mills, Kentucky, without his father's knowledge or consent, and was soon after that engaged in the battles at Big Hill and Richmond, Ky.; that applicant's father came and took him out of the service, as affiant was told by Capt. Price himself; that applicant corresponded with his comrades after he left the service, and that they knew where he was all the time, and never regarded him as a deserter.

Under date March 15, 1888, it was determined by the Department that inasmuch as the testimony adduced did not call in question the justness or accuracy of the charge of desertion standing against the soldier, and as the case did not come within the provisions of the act of Congress approved July 5, 1884, the application must be denied, and the applicant was so informed, through Hon. W. D. Owen, M. C., who had presented the testimony.

On the 10th October, 1891, the following supplementary testimony was submitted:

In an affidavit dated October 8, 1891, the applicant testified that he enlisted in Company K, Seventh Kentucky Cavalry, at about the age of 16; was captured at the battle of Richmond, Ky., August 30, 1862, and paroled September 3, 1862; that he at once went home and remained there about ten days, and then reported to the proper military authorities at Louisville, being sent thence to Camp Chase, Ohio, where he remained for a few days, and then returned to his home in Kentucky; that he was in constant communication with his comrades in the field until the close of the war, and was ready at any time to rejoin his command when properly exchanged and called upon to report for duty; that he never received notice that he was exchanged, and was not called upon to report for duty, but was unjustly and falsely marked on the rolls as a deserter.

M. R. McDowell, a former affiant, in an affidavit dated August 28, 1891, repeated the testimony given in his affidavit of February 10, 1887, adding that he learned that applicant's father was against his going into the service, for the reason that he already had two other boys in the Union service, and that upon the regiment's reporting at Louisville, he (the father), being there as a refugee from the interior of the State, found his son and took him away; thought applicant's father got permission from the commander of the army at Louisville to take him out of the Army or take him home; did not know whether applicant was ever exchanged, but could not think he was; believed the charge of desertion to be unjust, and was of opinion that had applicant been considered a deserter he would have been brought back and tried by court-martial.

O. S. Moore, a former affiant, in an affidavit dated October 5, 1891, testified to the same general effect as in his affidavit dated July 5, 1887.

In a petition addressed to the Secretary of War, received at this Department October 10, 1891, 47 members of the Grand Army of the Republic, some of whom were members of applicant's regiment, represented applicant as a man of excellent character, and stated a belief that the charge of desertion was unjust, and they asked that said charge be removed and an honorable discharge be issued to him.

On the 13th October, 1891, the soldier was informed, through his attorney, that the provisions of the act of Congress approved March 2, 1889, authorizing the removal of charges of desertion under certain circumstances, did not cover his case, for the reason that he did not serve until the expiration of his term of enlistment, or until May 1, 1865, and it being clearly shown by the testimony that he was not prevented from completing his term of service by reason of disability contracted in the line of duty. With reference to the matter of his exchange (of which he claimed to have been in ignorance), it was added that all the men captured by Gen. Kirby Smith at the time of applicant's capture were declared exchanged in general orders November 19, 1862, which were given wide publicity at the time.

The status of the case has since undergone no change, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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Page, of Bucksport, Me., who stated that he was unfit for duty, and that he (Dr. Page) would report his case; that the said doctor attended him during the following summer and fall, and that it was claimant's belief that Dr. Page (now dead) had reported his case to the proper authorities.

S. H. Gray, a neighbor, testified March 7, 1885, that he was in Blue Hill when the soldier arrived, in June, 1864, on his way home, being badly used up at the time; that he was wounded and sick, and remained sick all that summer and the following winter; "in fact, he has never been well since;" that his physician told him that he would report his case to the hospital authorities, but neglected to do so.

William Wescott and S. P. Snowman, neighbors, in separate affidavits corroborated claimant's testimony.

S. H. Gray and S. P. Snowman, in a joint affidavit executed July 1, 1884, testified that when the soldier returned home, on or about July 1, 1864, he was very low in health, and had chills and fever and "a bad wound in his hand;" that Dr. Page, of Bucksport, and Dr. Gray, of Penobscot, Me., attended him; that he continued sick during the summer of 1864, and, in affiant's opinion, was not fit for military duty after that time.

G. W. and T. J. McAllister, under date of December 19, 1885, declared that Gray was sick at the time he returned home in the summer of 1864.

Dr. David B. Gray testified, December 17, 1885, that he had been a practicing physician for twenty-eight years, was well acquainted with claimant, and called to see him at his father's house in July, 1864, where he found him suffering from chills and fever and a bad wound in his finger; that affiant did not give him any medicine at that time, as Dr. Page was attending him; that on September 10, 1864, affiant called on him and found him in poor health, his chills and fever somewhat better, but had pains in the region of the spleen and was very sore and sensitive to the touch; that claimant told him that Dr. Page was going to procure him a discharge, which affiant supposed he did; that affiant prescribed for him again on November 10, 1864, at which time he had some pain in his left side; that affiant treated him at various times for chills up to 1883, and is sure that claimant was unfit for military duty after July, 1864.

On October 7, 1886, the application was denied on the ground that the testimony presented was not sufficient to establish that the soldier was physically unable to complete his term of enlistment.

Under date of October 9, 1891, claimant testified that while in the line of duty at the battle of the Wilderness, in May, 1864, he was severely wounded in the right hand; that he had been suffering also from malarial disease for which he was treated in regimental hospital; that after he had been sent to Augusta, Me., he was furloughed to his home to recruit, and was told to remain there until called for; that he was under the care of physicians for some length of time, but through ignorance he did not report to the proper authorities.

John G. Eaton, Mark L. Elwell, and Moses E. Friend, selectmen of the town of Sedgwick, Me., under date of October 9, 1891, certified that they had known the claimant for a period of thirty years, and that he was a man of truth, and they had every reason to believe that his statements were true and correct.

The application was again denied October 19, 1891, on the ground that the case was not covered by existing law—act of Congress approved March 2, 1889.

Since that date the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. E. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

To the honorable Senate and House of Representatives in Congress assembled:

The humble petition of James E. Gray, a resident of Sedgwick, county of Hancock, State of Maine, late a private in Company D, Thirty-first Maine Volunteers, showeth that he served in said company and regiment, war of the rebellion, 1861; that while in action and in the line of duty, on or about the month of May, 1864, at the battle of the Wilderness, was severely wounded in the right hand, and was also suffering from other malarial diseases contracted while in the military service of the United States; was treated therefor in regimental hospital, and from said hospital was sent to Augusta, Me., and furloughed to his home to recruit, and was ordered to remain at home until sent for. He remained at home under the care of his physician, Dr. Page, of Bucksport, Me., for some length of time, and through utter ignorance of the Articles of War, did not report to the proper authorities. He now finds that he is marked a deserter, and as the Adjutant-General, United States Army, refuses to remove the said mark of desertion standing against your petitioner, he humbly appeals to your honorable House and asks that a special act may be passed for his

relief; that said mark be removed and an honorable discharge be granted him, on grounds that he was *no deserter*, nor never had any intention of committing such cowardly act. He now humbly asks your honorable House that his request be granted, and your petitioner, as in duty bound, will ever pray.

JAMES E. GRAY (aged 49 years).

Witnesses:
SAMUEL P. SNAUM (aged 56 years).
IRA J. COUSINS (aged 44 years).

STATE OF MAINE, *County of Hancock, ss:*

On this, the 25th day of November, A. D. 1891, personally appeared before me, a justice of the peace, duly authorized to administer oaths, the above-named petitioner and witnesses, who on oath say they were present and saw James E. Gray, the petitioner, sign his name to said petition. I say that all and each of the above parties are well known to me to be respectable and credible. I have no interest whatever in the matter. My post-office address is North Brooksville, Howard County, Me.

[SEAL.]

CHARLES H. PERKINS,
Justice of the Peace.

SEDGWICK, HANCOCK COUNTY, ME., *November 25, 1891.*

This is to certify that we, the undersigned citizens of Sedgwick, county of Hancock, State of Maine, being the selectmen of said town, say that we have known and been personally acquainted with James E. Gray, of said town, county, and State, for a period of thirty years, and we have every reason to believe that the statement made by him in petition is true and correct; and we further say, that in this community he is considered to be a man of veracity and truth. We have no interest in the matter set forth in the petition.

SAMUEL A. GRAY (aged 57 years).
DEXTER SCHEERNY (aged 45 years).
MARION PEASLEE (aged 55 years).

This is to certify that we, whose names are affixed to this document, are citizens of Sedgwick, county of Hancock and State of Maine, and do on our oaths testify, depose and say: That we have known and been intimately acquainted with James E. Gray, late a private in Company D, Thirty-first Regiment Maine Volunteers, for a period of thirty years; that we have every reason to believe that he was no deserter from the U. S. Army, but from his own neglect and ignorance he did not report to the proper authorities when at home, sick on furlough, which caused the mark of desertion against his name; we say that he is deserving, honest, and loyal; we have no interest whatever in the matter. Our post-office address is Sedgwick, Hancock County, Me.

JOHN G. EATON (aged 46 years).
MARK L. ELWELL (aged 54 years).
MOSES E. FRIEND (aged 50 years).

STATE OF MAINE, *County of Hancock, ss:*

On this, the 24th day of November, A. D. 1891, personally appeared before me the above subscribers, and made oath to the truth of the above statement by them made and subscribed. I say, they are respectable and credible. I have no interest in the matter. My post-office address is North Brooksville, Hancock County, Me.

GEORGE O. GRAY,
Justice of the Peace.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 107.

CHESTER F. GRANT.

FEBRUARY 5, 1892.—Committed to the Committee of the Wole House and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1336.]

The Committee on Military Affairs have had under consideration the bill (H. R. 1336) granting an honorable discharge to Chester F. Grant, and report as follows:

From the military record furnished the committee by the War Department it appears that the said Chester F. Grant was a member of Company C, Thirty-ninth Iowa Volunteers, enrolled August, 1862; that he served faithfully until about December 20, 1862, when he was captured at Shady Grove, Tenn.; that he was released March 6, 1863; was sent to Benton Barracks, from which place he is reported as having deserted in September, 1863. From the affidavit of Capt. D. Marsh, captain of said company, it appears that the said Chester F. Grout had a wife and several children living at Adel, Iowa; that they were poor and in destitute circumstances; that the said soldier was an ignorant, uneducated man, with but little knowledge of military law or discipline.

From the affidavit of the soldier and his comrades that while in parole camp at St. Louis he received word of the severe sickness and destitution of his family, and he left the camp without permission to go to them; that one of his children died soon after his getting home; that the family was utterly destitute, and he remained with them to care for them.

In view of all the facts presented, your committee believe this is a meritorious case and recommend that the bill do pass. The record and affidavit are hereto appended and made part of this report.

Case of Chester F. Grant, an alleged late private in Company C, Thirty-ninth Iowa Volunteers.

RECORD AND PENSION DIVISION, *January 22, 1892.*

The name Chester F. Grant has not been found on the rolls of Company C, Thirty-ninth Iowa Volunteers. Chester F. *Grout* was, however, a member of that organization, and from the official records it appears that he was enrolled August 11, 1862, to serve three years, and served faithfully until on or about December 20, 1862, when he was captured at Shady Grove, Tenn. He was released March 6, 1863, and was sent to Benton Barracks, Mo., where he is reported to have deserted on or about September 1, 1863. He did not return to his command, which remained in service until June 5, 1865.

No testimony has been submitted to this Department looking to a removal of the charge of desertion, and in the absence of evidence as to the cause of his failure to return to the military service the status of the soldier under the statute for the relief of soldiers charged with desertion can not be determined.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

On this 7th day of April, A. D. 1891, before me, A. M. McColl, clerk of the district court in and for Dallas County, Iowa, personally appeared Isaac D. Marsh, whose age is 67 years, and whose occupation is that of a retired farmer, and whose residence is Adel, Dallas County, Iowa, and whom I certify to be respectable and entitled to credit, and who being by me first duly sworn, deposes and testifies as follows:

That he was captain of Company C, Thirty-ninth Regiment Iowa Infantry Volunteers. That affiant knew Chester F. Grout, who enlisted in said company in Adel, Iowa, in the summer of 1862. That my recollection is that said Grout then had a wife and several children living in Adel, Iowa, and that they were very poor, in fact almost in destitute circumstances. That said Chester F. Grout served in my company, in the regiment aforesaid, from the time of his enlistment until the latter part of December, 1862. That he was captured by the rebels the latter part of December, 1862, at a place called Shady Grove, in the State of Tennessee. That he never again returned to my company, and his record is that he deserted. That said Grout was an ignorant, uneducated man, with but little general information and with but little knowledge of military law or discipline. That I never knew said soldier prior to the time he enlisted, and I am in no way related to him, and I have but little recollection of him.

ISAAC D. MARSH.

Sworn to and subscribed before me and in my presence by said Isaac D. Marsh on this 7th day of April, A. D. 1891.

[SEAL.]

A. M. MCCOLL,
Clerk of the District Court.

On this 7th day of April, A. D. 1891, before me, A. M. McColl, clerk of the district court in and for Dallas County, Iowa, personally appeared C. G. D. Rickerson, whose age is 61 years, and whose occupation is that of a carpenter, and whose residence is Adel, Dallas County, Iowa, and whom I certify to be respectable and entitled to credence, and who, being by me first duly sworn, deposes and testifies as follows:

That he was a member of Company B, Thirty-ninth Regiment Iowa Infantry Volunteers. That he enlisted in said service in the summer of 1862, and that he well knew Chester F. Grout, who was a private soldier in Company C of said regiment. That said Chester F. Grout was captured by the rebels the latter part of December, 1862, at a place called Shady Grove, in the State of Tennessee, and my recollection is that he never again returned to the regiment, and I am informed that his record is that of a deserter. That said Chester F. Grout was very poor and he was ignorant and uneducated. He had but little general information and but little knowledge of military law or discipline, and my recollection of him is that he was a man of good morals and habits, and that his reputation was that of an honest and industrious man; and my recollection of him is also that, while he was with said company in the service aforesaid, he was a good soldier, and always did his duty cheerfully. I am in no way related to said Chester F. Grout, and yet I have no doubt but that his disability should be removed, and that he should be granted an honorable discharge from said service.

C. G. D. RICKERSON.

Sworn to and subscribed before me and in my presence by said C. G. D. Rickerson on this 7th day of April, A. D. 1891.

[SEAL.]

A. M. MCCOLL,
Clerk of District Court.

On this 8th day of April, A. D. 1891, before me, A. M. McColl, clerk of the district court in and for Dallas County, Iowa, personally appeared Thomas Ashton, whose age is 57 years, and whose occupation is that of a farmer, and whose residence is Adel, Dallas County, Iowa, and whom I certify to be respectable and entitled to credence, and who being by me first duly sworn, deposes and testifies as follows:

That he has long known Chester F. Grout, who was formerly a private soldier in Company C, Thirty-ninth Regiment Iowa Infantry Volunteers. That said Chester

F. Grout enlisted in said service in Adel, Iowa, in the summer of 1862; that affiant was a member of the same company with said Grout. That about the last of December, 1862, said Chester F. Grout, while in said service, in the company and regiment aforesaid, and while he was in line of duty, was captured by the rebels at a place called Shady Grove, in the State of Tennessee. A few days thereafter, at the battle of Parkers Cross Roads, in the State of Tennessee, affiant was captured. That both affiant and said Chester F. Grout were soon thereafter paroled and sent to a parole camp at St. Louis, Mo., where we were both kept without being exchanged until in September, A. D. 1863. That while said Chester F. Grout was at said parole camp at St. Louis under said parole as a prisoner of war, and before he was exchanged, he received word that some of his family, in Adel, Iowa, were dangerously sick; he then had a wife and several children living in Adel, Iowa, who were almost in destitute circumstances. Upon receiving such word, as to the dangerous condition of his family, he left said camp without leave and came home, and, as affiant is informed, he never returned to his regiment. That said Grout was a good soldier up to the time he was captured, as aforesaid; that he is an ignorant, uneducated man, with but very little general information or knowledge, and he had always born the reputation of being honest, industrious, and reliable. I am not in any way related to said Chester F. Grout, and I believe that his disabilities should be removed, and that he should be granted an honorable discharge.

THOMAS ASHTON.

Subscribed and sworn to before me by Thomas Ashton this 8th day of April, 1891.
[SEAL.] A. M. MCCOLL,
Clerk of the District Court of Dallas County, Iowa.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 108.

WILLIAM A. WINDER.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 704.]

Your committee have had under consideration the bill (H. R. 704) to restore William A. Winder to the United States Army, and to place him on the retired list with the rank of captain of artillery.

The military record of Capt. Winder, furnished to the Committee by the War Department, shows that William A. Winder was appointed second lieutenant, Third United States Artillery, March 24, 1848, and was promoted first lieutenant August 22, 1853, and captain May 14, 1861; that he resigned October 14, 1866, having served continuously for more than eighteen years. Capt. Winder was on board the ill-fated steamer *San Francisco* with eight companies of his regiment, en route to San Francisco, in 1853, when said steamer was wrecked and 200 men and officers lost. The legislature of the State of Maryland unanimously adopted the following resolution:

> That the thanks of their native State are also tendered to Capt. James T. Watkins, the noble and heroic commander of the ill-fated steamer *San Francisco*, and to Maj. Wyse, Lieuts. W. A. Winder and F. Key Murray, for their courageous and gallant bearing during these trying times.

Capt. Winder was commander of Alcatraz Island, at San Francisco, the most important command on the Pacific coast, for three and a half years, from 1861 to 1864.

Capt. Winder is now an old man in feeble health, has served his country well, and deserves its gratitude. We therefore recommend that the bill do pass. The military record and letters of military officers referred to are presented herewith as a part of this report.

MILITARY SERVICE OF WILLIAM A. WINDER.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 20, 1892.

Statement of the military service of William A. Winder, late of the United States Army, compiled from the records of this office:

He was appointed second lieutenant Third Artillery, March 24, 1848; first lieutenant Third Artillery, August 22, 1853; captain Third Artillery, May 14, 1861. On duty at Newport Barracks, Ky., from April 30 to September 28, 1848; joined regiment, October 14, 1848, and served therewith at Fort Constitution, N. H., to Sep-

tember 24, 1849, in Florida to August 25, 1850; on sick leave to January 28, 1851; with company at Fort Constitution, N. H., to September 21, 1852; at Jefferson Barracks, Mo., to May 24, 1853; at Fort Preble, Me., to October 1853; en route to California, until wrecked on steamer *San Francisco*, in January, 1854; at Fort Wood, N. Y., to April 15, 1854; en route to California to May 29, 1854; at San Diego, Cal., to November 4, 1857, at Fort Yuma, Cal., to June 28, 1858; on recruiting service to June, 1860; awaiting orders to February 21, 1861; en route to March 22, 1861; with company at Presidio, Cal., to May 30, 1861; at Alcatraz Island, Cal., to October 21, 1861; at Washington, D. C., to January, 1862; at Alcatraz Island, Cal., to August 2, 1864; at Point San José, Cal., to August, 1865; at San Diego, Cal., to October 6, 1865; en route to the East to November 21, 1865; on recruiting service in New York to January 18, 1866, and on leave until he resigned, October 18, 1866.

In January, 1867, he applied from San Francisco to the President for reinstatement, in which application he said, "My resignation was tendered while under the impression that the honorable Secretary of War was unfriendly toward me." The vacancy made by his resignation had been filled and it was beyond the legal power of the President to reappoint him in his former grade.

He again applied in 1878 and 1879 for restoration, and was advised by the Secretary of War that it was not in the power of the Executive to comply with his request; his restoration was then recommended by ex-Governor Low, Hon. P. D. Wigginton, and others of California.

J. C. KELTON,
Adjutant-General.

MARYLAND, *sct:*

At a session of the general assembly of Maryland, begun and held at the city of Annapolis on the first Wednesday of January, being the fourth day of the said month, in the year of our Lord 1854, and ended the 10th day of March in the year aforesaid: his excellency T. Watkins Ligon, esq., governor.

Among others, the following resolutions were passed, to wit:

No. 9. By THE HOUSE OF DELEGATES,
January 24, 1854.

Resolved by the general assembly of Maryland, That the thanks of this State be, and they are hereby, tendered to Capt. Creighton, of the bark *Three Bells*, Capt. Lowe, of the *Kilby*, and Capt. Stouffer, of the *Antarctic*, for their noble and humane conduct in rescuing so many valuable lives from the wreck of the ill-fated steamer *San Francisco*.

Resolved, That the thanks of their native State are also tendered to Capt. James T. Watkins, the noble and heroic commander of the unfortunate steamship *San Francisco*, and to Maj. Wyse, Lieuts. W. A. Winder, and Charles S. Winder, and Lieut. Frank Key Murray, for their courageous and gallant bearing during those trying scenes.

Resolved, That our Senators and Representatives in Congress are requested to use their influence to procure the passage of a law granting assistance to the widows and families of the officers and soldiers who perished during this distressing occasion.

Resolved, That his excellency the governor be requested to transmit to each of the above-named officers a copy of the foregoing resolutions, duly authenticated; and to forward to our Senators and Representatives in Congress an authenticated copy of the last resolution.

By the house of delegates, January 24, 1854.
By order, read and assented to.

W. A. STEWART, *Clerk.*

By the senate, February 17, 1854.
By order, read and assented to.

C. HARWOOD, *Secretary.*

MARYLAND, *sct:*

I, William A. Spencer, clerk of the court of appeals of Maryland, do hereby certify that the foregoing is a full and true copy of the resolutions of the general assembly of Maryland, of which it purports to be a copy, as taken from the original engrossed resolutions deposited in and belonging to the office of the court of appeals of the said State.

In testimony whereof, I have hereunto set my hand as clerk, and affixed the seal of the said court of appeals this 28th day of May, A. D. 1855.

[SEAL.] WILLIAM A. SPENCER,
Clk.

STATE OF MARYLAND, *to wit:*

I, Thomas Watkins Ligon, governor of the State of Maryland, do hereby certify that William A. Spencer is clerk of the court of appeals of Maryland, and as such

is keeper of the acts and resolutions of the general assembly of the said State, and that the foregoing attestation is in due form and by the proper officer.

In testimony whereof, I hereunto set my hand and affix the great seal of the State of Maryland, this 28th day of May, A. D. 1855.

[SEAL.] T. WATKINS LIGON.

By the Governor:

NATHANIEL COX,
Secretary of State.

HEADQUARTERS DISTRICT OF CALIFORIA,
Sacramento, Cal., October 8, 1864.

SIR: In complying with your instructions of October 5, 1864, on the communication of Maj. Gen. Halleck, and addressed to Maj. Gen. McDowell, commanding Department of the Pacific, I have the honor to report that during all the period of Capt. Winder's command of Alcatraz Island, I never had a doubt of his reliability as a faithful officer.

In the summer of 1862 there was considerable talk in the city of San Francisco in relation to Capt. Winder, growing, I apprehend, out of the fact that his father was in the rebel army, and as I wished to increase the force on the island I sent Capt. Black with his company of the Ninth Infantry, as he ranked Capt. Winder; I did this with a view of quieting the public mind.

In all the communications I ever received from Capt. Winder, as well as frequent conversations with him, I was fully convinced of his loyalty to the Government. At the frequent inspections I made of Alcatraz during his command, I always found everything in the most perfect order and satisfactory condition. His system of alarm signals to prevent surprise, and general preparations to meet any emergency, evinced a thorough knowledge of his duty and responsibility as commander of the most important defense of the harbor and city of San Francisco.

Very respectfully, your obedient servant,

GEO. WRIGHT,
Brigadier-General.

HEADQUARTERS MILITARY DIVISION OF THE PACIFIC,
San Francisco, Cal., March 19, 1880.

SIR: In reply to your letter of January 24, 1880, I am glad to say that having a distinct recollection of your services while in the Army under my command in California, during the latter part of the war, I never doubted nor had occasion to doubt your loyalty to the Government; I had implicit confidence in your zeal and ability as a faithful officer and have on several occasions so stated officially.

I inclose you a copy of a communication from Gen. Wright concerning yourself as evidence of the good opinion that excellent officer entertained for you.

Respectfully, your obedient servant,

IRVIN MCDOWELL,
Major-General, Commanding.

WM. A. WINDER,
Late Captain Third Artillery, San Diego.

NOTE.—Original on file in Senate archives with copy of Senator Blair's bill in 1880.

SAN FRANCISCO, CAL., *January 27, 1880.*

MY DEAR WINDER: It affords me pleasure in stating what I know of you during your military career.

I became acquainted with you shortly after I graduated from West Point, in 1848, and saw you frequently during following eighteen years, during which time you were an officer of artillery, and I always considered you an efficient officer and never doubted your loyalty to the Government.

I understand you wish to be reinstated and placed upon the retired list. I wish you the success you so well deserve.

Yours, truly,

R. S. WILLIAMSON,
United States Engineer.

WASHINGTON, D. C., *January 16, 1880.*

SIR: I have been requested to address you in behalf of Capt. William A. Winder, late of the United States Army.

Capt. Winder served many years in California, where I knew him well, especially when he was in command of the fortified island of Alcatraz in the harbor of San Francisco.

I had, at the time of Captain Winder's command of that island, the charge of the construction of the fortifications, and had excellent opportunities, through my daily association with him, for forming a correct judgment of his abilities as an officer.

I now take pleasure in testifying to Captain Winder's ability, professional pride, and sleepless anxiety, that all under his charge should be faithfully administered and guarded, at a time when unusual caution and good judgment were requisite on the part of the commander of Alcatraz—I refer to the early days of late civil war, when there were plots to seize the fortified places in the harbor of San Francisco and detach California from the Union, and when Alcatraz was made the military prison for the disaffected.

It may add to your estimation of my opinion of Capt. Winder if I state that my duties as engineer officer were quite separate from and independent of his command of the garrison.

I have the honor to be your obedient servant,

GEORGE H. ELLIOT,
Major of Engineers.

Hon. H. W. BLAIR,
U. S. Senate.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 109.

RICHARD M. EDWARDS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3572.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3572) for the relief of Richard M. Edwards, of Cleveland, Tenn., having considered the same, respectfully report:

That Richard M. Edwards performed the services of commissary of subsistence of volunteers with the rank of captain from June 30, 1862, until August or September of the same year; that he was then transferred to the field and put in charge of troops with the rank of colonel of volunteers, and performed services as such until November 2, 1863; that for such services he has received no compensation. He presents to the committee a commission as captain and commissary of subsistence, signed by the President and Secretary of War, given to date from June 30, 1862. Such commission did not reach him, owing to his remote position, being cut off by intervening Confederate forces, until he had been transferred to such active service in the field. All the necessary facts embraced in the case are found in the report of the War Department and the statement of Col. Edwards (between which there appears to be no conflict in the statement of facts), both of which are herewith submitted.

Your committee recommend that the bill do pass.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, May 16, 1890.

SIR: I have the honor to return herewith House bill 8014 "for the relief of Richard M. Edwards, of Cleveland, Tenn.," which has been referred to the Department by the House Committee on Military Affairs.

The bill provides (sec. 1) for payment to the said Edwards of the pay and allowances of a captain of cavalry from June 30, 1862, to November 2, 1863, and directs (sec. 2) the Secretary of War "to amend the record of said Richard M. Edwards, and to muster him as captain and commissary of subsistence, to date from June 30, 1862, in accordance with commission issued to him by Abraham Lincoln, President, dated August 2, 1862."

It appears of record that under date of May 12, 1862, Brig. Gen. James G. Spears, then commanding a brigade in the Army of the Ohio, operating in Kentucky, addressed a letter to the Adjutant-General of the Army saying: "I hereby nominate R. M. Edwards, commissary of subsistence for the Twenty-fifth Brigade, Army of the Ohio, to take effect from the 12th day of May, 1862, the day of selection and time he commenced acting, and desire his commission be forwarded to him at the earliest practicable time."

This letter was indorsed as follows:

"HEADQUARTERS DISTRICT OF OHIO,
Nashville, June 19, 1862.

"Approved and respectfully forwarded to the Adjutant-General of the Army.

D. C. BUELL,
Major-General Commanding District,
by O. D. GREENE,
Assistant Adjutant-General.

"ADJUTANT-GENERAL'S OFFICE,
June 23, 1862.

"Respectfully returned.

"Richard M. Edwards was nominated as commissary of subsistence on the 20th of June, 1862. As soon as confirmed the commission will be forwarded.

"J. P. GARESCHÉ,
"*Assistant Adjutant-General.*

This paper, returned to the writer by this office, as above indicated, is indorsed by Colonel Edwards as having reached him again July 5, 1862. It was subsequently sent to the War Department in connection with his claim for pay.

The nomination of Colonel Edwards for appointment as captain and commissary of subsistence of volunteers was confirmed by the Senate in due time, and a commission for him was issued accordingly by the President on August 2, 1862, conferring the rank from June 30, 1862, and was sent to the care of the commanding general at Nashville, Tenn., August 25, 1862. Its receipt was never acknowledged by Colonel Edwards, and in the absence of any acknowledgment or acceptance on his part or of any service rendered under the commission, it was cancelled by War Department orders of April 8, 1865. It is possible that the reason he did not accept the appointment and qualify under it was owing to the circumstances explained by Hon. W. G. Brownlow in his letter to the Secretary of War of April 26, 1863—copy annexed, A. It will be seen that Colonel Edwards himself, however, assigns as a reason that he preferred service in command of troops. The official returns and reports from the military commands Colonel Edwards served with or claims to have served with, from June 30, 1862, to November 2, 1863, are very incomplete, and afford no evidence of his service in any capacity, and the Commissary-General of Subsistence now reports that the records of his office "do not show that Richard M. Edwards rendered returns or accounts as captain and commissary of subsistence during any portion of the time from June 30, 1862, to November 2, 1863, and he does not appear during that time to have been charged with funds, stores, or property."

In September, 1863, Colonel Edwards presented, through Horatio King of this city, a claim for "pay as commissary of subsistence from May 12, 1862, to July 24, 1862, and as colonel of said (Fourth) East Tennessee Cavalry from the latter date, or from September 11, when he had ninety men sworn into the United States service, till he was superseded."

With this claim was submitted a number of papers as evidence of service, comprising Colonel Edward's own statement under oath (copy annexed, B); various orders to him from commanding generals dated at various times from August, 1862, to April 1863, in which he is designated first as "colonel, East Tennessee Cavalry," or as "colonel, First East Tennessee Cavalry," and later as "colonel Fourth East Tennessee Cavalry," and a paper purporting to be a copy of an order from Andrew Johnson, military governor of Tennessee, of May 17, 1862 (of which a copy is annexed, C), authorizing Colonel Edwards to raise a battalion or regiment of cavalry. The claim for pay then made was disallowed by the Secretary of War (see War Department letter to Mr. King of September 28, 1863, copy annexed, D).

Subsequently, under date of August 14, 1865, President Johnson referred to the Secretary of War a copy of a letter which had been addressed to him November 2, 1864 (when he was military governor of Tennessee) by Colonel Edwards, asking to be mustered in as colonel of the Fourth East Tennessee Cavalry to date from September 12, 1862, on the ground that upon that date, "by order of General Morgan," he "went to duty as colonel at Cumberland Gap, Ky.," together with a copy of his (Governor Johnson's) indorsement thereon of December 28, 1864, in which it was recommended that "Colonel Edwards be mustered in as colonel to date from November 2, 1863, and to be mustered out from the date of the muster in of the Twelfth Company, November 24, 1864, as the regiment was at that time, and is now, reduced below the minimum

required by law" to entitle it to a colonel, etc. The indorsement added that "Colonel Edwards will be entitled to one year's pay, which will enable him to liquidate obligations that he actually incurred in the organization of this regiment."

A copy of the President's indorsement, in full, referring this paper, and of the order of the Secretary of War indorsed thereon and copy of the special order issued in pursuance of the instructions given, are annexed, E.

It further appears that on December 29, 1864, Governor Johnson issued a commission for Colonel Edwards as colonel of the Fourth Tennessee Cavalry, to rank from November 2, 1863.

It is presumed that this commission, which was made after the date of Colonel Edwards's muster out, was issued simply to complete the official record.

It is concluded from the evidence contained in the papers on file that Colonel Edwards did render military service to the Government more or less continuously, in various ways, between June 30, 1862, and November 2, 1863, and no evidence is found that he received any pay from the Government for any part of that period, but it does not appear that such service was rendered under or by virtue of the commission issued for him by the President. He appears to have an equitable, if not a legal, claim for compensation for his services, but it is suggested that the bill be amended by striking out the second section, which requires the Secretary of War to "muster" Colonel Edwards as captain, etc. The office of commissary of subsistence during the war was one which could be filled only by appointment of the President with the consent of the Senate. Persons appointed to such offices were not "mustered" into the United States service as were officers of volunteer regiments of States, but entered into possession of their offices by accepting their appointments and executing the prescribed oaths of office. Colonel Edwards did not accept the commission as captain and commissary of subsistence conferred upon him, nor qualify by taking the required oath, nor did he enter on duty under that commission. He did not, therefore, hold nor enter into possession of the office, which long ago ceased to exist, and he can not possibly be now put into possession of it by any legislative or executive act, although he may be allowed by law any privileges, pay, pension, etc., which he would be entitled to had he actually held the office in question.

Very respectfully, your obedient servant,

C. McKeever,
Acting Adjutant-General.

The Secretary of War.

To the Senate and House of Representatives in Congress assembled:

Your petitioner, Richard M. Edwards, a citizen of Cleveland, County of Bradley, State of Tennessee, respectfully shows:

That on the 13th day of May, A. D., 1862, at Barbourville, Ky., he was appointed by Brig. Gen. James G. Spears, commissary of subsistence, and assigned to duty in the Twenty-fifth Brigade, Seventh Division, Army of the Ohio, as will appear from Exhibit A to this petition. He further shows that he on the same day entered upon the discharge of the duties of said office and continued in the performance of the same until the 10th of August, 1862. On the 10th of August, 1862, being then at Cumberland Gap, Ky., owing to an interruption of the mails by General Bragg's invasion of Kentucky, or some other failure of the mails, his commission not having arrived, and having authority from Hon. Andrew Johnson, military governor of Tennessee, to raise a battalion of cavalry he began the organization of what was subsequently known as the Fourth Regiment Tennessee Volunteer Cavalry.

The authority for raising said regiment is shown by the certified copy appended as Exhibit B. About the last of August or early in September, 1862, petitioner received his commission, which was dated August 2, 1862, and marked as "Recorded volume 17, page 92, Adjutant-General's Office, August 2, 1862, E. D. Townsend, Adjutant-General." Having begun the organization of a regiment of cavalry for more active service, which he preferred, petitioner did not muster in under said commission and consequently has never received any pay for his services from said 13th day of May to 10th August, 1862. In the performance of the duties of said office, not being a bonded or mustered officer, petitioner obtained supplies for said brigade entirely from the country adjacent to the encampment, giving vouchers for same, all of which have been referred to petitioner by the Treasury Department for identification and recertification, which has been done and final settlement and return made with the Commissary Department, as will be shown. In July, 1868, petitioner was required to and did make settlement with the Commissary Department of all supplies furnished by him to said Twenty-fifth Brigade, and full acquittance had, which is lost or mislaid, but the statement will be verified by the Department.

While recruiting the Fourth Tennessee Volunteer Cavalry he was frequently on active duty at various points, to wit, at Cumberland Gap about September 1st; was

by order of General Morgan sent to Harlan County, Ky., to gather supplies, his men acting as infantry. At Gallipolis, Ohio, furnished escort to General Morgan up the Kanawha River, West Virginia. In December, 1862, at Louisville, Ky., was by order of General Boyle placed in command of Shepherdsville on the Louisville and Nashville Railroad to defend the bridge across Salt River at that place, then menaced by John Morgan, who was approaching Louisville and was only 8 miles distant, but made no attack on the place, but turned and left the State. Again, at Nashville on February 5, 1863, by order of the general commanding, was ordered to accompany the cavalry command sent out to intercept Forrest, who had been down the Cumberland capturing steamers bringing supplies to the Union forces, and various other expeditions, the various orders in reference to which were sent to Hon. R. R. Butler, March 27, 1872, and reported by him to have been lost.

The Fourth Regiment Tennessee Volunteer Cavalry was completed by muster of the twelfth company on the second day of November, 1864.

The reason of such long delay was caused by the unreasonable and unaccountable opposition of Col. Rob't Johnson operating on his father, then military governor of Tennessee, causing him from time to time to take large numbers of men from the Fourth and turn them over to Johnson's regiment, as see order of General Boyle at Louisville, Ky., December, 19, 1862 (Exhibit E).

Also, for the animus of father and son, see Governor Johnson's telegram of January 10, 1863, to General Boyle, a copy of which sent by General Boyle here appended as Exhibit D.

The regiment being thus completed notwithstanding the difficulties under which petitioner labored from the unreasoning opposition and enmity of Governor Johnson and son, petitioner applied for and obtained his commission dated December 29, 1864, but the older companies having been greatly depleted in battle and sickness, petitioner could not be mustered under the then existing regulations.

Under these circumstances Governor Johnson was induced to make a recommendation to the Department to pay petitioner "one year's pay, which will enable him to liquidate obligations that he actually incurred in the organization of this regiment." See copy of his recommendation appended as exhibit E.

Thus it will be seen that petitioner got only his expenses under the muster by Special Order of the War Department No. 549, Extract III, copy appended as exhibit F.

It will be seen by the foregoing that petitioner has received no compensation for services whatever, only his expenses incurred in organizing a splendid regiment of cavalry.

Under these circumstances, as an act of simple justice, he asks relief to the extent of being mustered and paid as captain and assistant commissary of subsistence from 30th June, 1862, to November 2, 1863, from which latter date he was mustered as colonel Fourth Tennessee Cavalry.

RICHARD M. EDWARDS.

STATE OF TENNESSEE, *Hamilton County:*

Personally appeared before me, F. De Tavernier, a justice of the peace and notary public for said county, Richard M. Edwards, and made oath in due form of law that the facts stated in the foregoing petition are true to the best of his knowledge, information, and belief.

RICHARD M. EDWARDS.

Sworn to and subscribed before me October 11, 1889.
[SEAL.]

FR. DE TAVERNIER,
Justice of the Peace and Notary Public.

STATE OF TENNESSEE, *Hamilton County:*

Personally appeared Hon. D. C. Trewhitt, to me well known, being by me duly sworn, deposes as follows: I have been acquainted with Richard M. Edwards since 1839, when we were boys. I have read his petition for muster and pay as captain and assistant commissary of subsistence, and in verification of same state that I have examined Exhibit A to said petition and recognize the same as my handwriting, I being at the date thereof adjutant-general of Twenty-fifth Brigade, Seventh Division, Army of the Ohio. I further state that he entered upon the duties of said position and performed the same substantially as he has stated, and the statement he has made in reference to raising and organizing the Fourth Regiment of Tennessee Volunteer Cavalry I believe to be correct. I make the foregoing statement from my present recollection, which I believe to be correct.

D. C. TREWHITT.

Sworn to and subscribed before me October 11, 1889.
[SEAL.]

FR. DE TAVERNIER,
Justice of the Peace and Notary Public.

STATE OF TENNESSEE, *Hamilton County:*

I, L. M. Clark, clerk of the county court of said county, do hereby certify that F. De Tavernier, esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, an acting justice of the peace in and for said county and State aforesaid, duly elected, commissioned, and qualified according to law, and that full faith and credit should be given to his official act as such.

Witness my hand and seal of said court at office in Chattanooga this 20th day of February, 1890.

[SEAL.] L. M. CLARK,
Clerk.

A.

CINCINNATI, *April* 26, 1863.

Hon. ED. M. STANTON:

I leave for Nashville to-morrow, where I shall remain two or more weeks. Before I leave I must trouble you with a line in regard to Col. R. M. Edwards, of the 4th Tennessee Cavalry, at Nashville. He is a true Union man; has lost his property in East Tennessee by his coming over and raising a regiment. He has a fine regiment, and yet he can't take the oath required, because, as a member of the late Tennessee legislature, he was forced to take the oath to support the Confederate Constitution, or go to jail. He is willing to swear that he never *voluntarily* swore to support it. Can't you give him the oath with that qualification? He is a true man, and has spent all he has to get up this regiment.

I am, etc., etc.,

W. G. BROWNLOW.

B.

STATE OF TENNESSEE, *Davidson County:*

On this eighth day of September, A. D. one thousand eight hundred and sixty-three, before me, George M. Southgate, a justice of the peace duly authorized to administer oaths within and for the county and State aforesaid, personally appeared Richard M. Edwards, aged thirty-nine years, a resident of Bradley County, State of Tennessee, who being duly sworn according to, declares that he is the identical R. M. Edwards who was nominated and appointed to the office of captain of commissary of subsistence by James G. Spears, brig. general commanding 25th Brigade, 7th Division, Army of the Ohio, at Barbourville, Kentucky, May 12th, 1862; that he immediately entered upon the discharge of the duties of said office, and continued to discharge the duties of said office until the 24th day of July, 1862; that on said 24th day of July, 1862, at Camp Morgan, in the State of Virginia, he having received an appointment and authority from Andrew Johnson, military governor of Tennessee, to raise and organize an battalion or regiment of cavalry, and not then having received any commission as captain of commissary and desiring to be engaged in the field, he, with the consent and approbation of General G. W. Morgan, began the organization of said regiment, then denominated the 1st Reg't East Tennessee Cavalry; that afterwards, to wit, on the 11th day of September, 1862, having ninety men in camp, sworn into the service of the United States, he was by General Morgan ordered to duty in Kentucky and from that date to the first day of April was continually on duty under various generals, to wit, Generals G. W. Morgan, James G. Spears, Brig. Gen'l Boyle, at Louisville, Ky., where with three hundred men deponent took an active part during the month of December and January in repulsing Gen'l Morgan in his attack on the Louisville and Nashville Railroad, and also on 5th February was ordered on duty by General Robert B. Mitchell, commanding post at Nashville, where he had lately arrived with his regiment by order of General Andrew Johnson, military governor of Tennessee. Since first April deponent has been engaged entirely in recruiting and organizing his regiment. Affiant further states that in the month of April, 1863, the commission as captain of commissary of subsistence was received from Washington City, it being dated 2d day of August, 1862, giving to deponent the rank of captain from thirtieth day of June, 1862, but when received, deponent having four hundred men under his command and having a fair prospect of completing said regiment, he did not give bond and qualify properly as directed because the position to which he was assigned had already been filled by the appointment of another incumbent, and the new duties of commander of a regiment being more desirable as giving deponent an opportunity to do more and better service to the country, now having eight full companies in service.

This declaration is made for the purpose of obtaining any arrears of pay and all other arrearages or sums of money due him by reason of the services above named, he having never received any pay or compensation for any services performed up to the present date, having received no other commission aside from the commission of captain of commissary, which, owing to the investment of Cumberland Gap by the insurgents in September, and the change of location by the evacuation and continual moving from point to point, did not reach deponent until too late to be accepted, and to the end of obtaining such compensation as may be right and proper, he hereby constitutes and appoints Horatio King, of Washington City, D. C., his true and lawful attorney to prosecute this claim, and authorizes him to receive and receipt for any draft or certificate, payable to declarant's order, that may issue, for whatever sum may be allowed on the same.

R. M. EDWARDS.

Subscribed and sworn to before me this 8th day of September, 1863.

GEORGE M. SOUTHGATE, [SEAL.]
Justice of the Peace.

Sworn to and subscribed before me the day and year first above written, and on the same day personally appeared John A. Kimbraugh and Nicholas J. Anderson, residents of Hamilton County, Tennessee, who, being duly sworn according to law, declare that they are personally acquainted with R. M. Edwards, who has made and subscribed the foregoing declaration, and know that he served as stated in said declaration. That their knowledge of his identity, as the person named, is derived from long acquaintance and having served a part of the time with him. That they reside as above and are disinterested in this claim.

JOHN A. KIMBRAUGH.
N. J. ANDERSON.

Sworn to and subscribed before me, and I certify that I believe the affiants to be creditable persons, and the declarant is the person he represents himself to be.

GEORGE M. SOUTHGATE, [SEAL.]
Justice of the Peace.

STATE OF TENNESSEE, *Davidson County:*

I, P. L. Nichol, clerk of the county court of the county in the State aforesaid, certify that George M. Southgate, whose genuine signature appears to the within affidavits, is and was at the time of signing the same an acting justice of the peace in and for said county, duly elected, commissioned, and qualified, and as such his official acts are entitled to full faith and credit.

Witness, P. L. Nichol, clerk, and the official seal of said court, at office in Nashville, September 8th, 1863.

[SEAL.]

P. L. NICHOL,
County Clerk.

C.

STATE OF TENNESSEE, EXECUTIVE DEPARTMENT,
Nashville, May 17, 1862.

To all whom it may concern:

R. M. Edwards, esq., of Bradley County, Tennessee, is hereby authorized to raise and organize a battalion or regiment of cavalry to be composed of East Tennesseeans and to be mustered into the service of the United States at such time and in such manner as may be hereafter indicated.

ANDREW JOHNSON,
Military Governor.

The above is a copy of authority issued to R. M. Edwards from this office May 17, 1862.

ANDREW JOHNSON,
Military-Governor.

D.

WAR DEPARTMENT,
Washington City, September 28, 1863.

SIR: In reply to your letter of the 19th instant, claiming pay for Mr. R. M. Edwards as colonel of East Tennessee Cavalry, the Secretary of War directs me to inform you that there is no evidence of service, no evidence of muster in, nor of his appointment

by Governor Johnson, save his own statement. The rolls of both the 1st and 4th Tennessee Cavalry have been examined, and his name is not borne on them in any capacity

On the evidence produced Mr. Edwards can not be recognized as an officer of the United States.

Very respectfully, your obedient servant,

JAS. A. HARDIE,
Asst. Adjutant-General.

Mr. HORATIO KING,
Washington, D. C.

E.

[Indorsements of the President and Secretary of War upon a paper which is marked as a copy of a letter dated Nashville, Tenn., November 2, 1864, addressed by R. M. Edwards to Andrew Johnson, military governor of Tennessee, and a copy of an indorsement of Governor Johnson thereon, dated December 28, 1864, the letter being a request of Col. Edwards to be mustered in as colonel of the 4th East Tennessee Cavalry, to date from September 12, 1862, and the recommendation in the indorsement being that the writer, Edwards, be mustered in to date November 2, 1863, and mustered out to date November 24, 1864.]

EXECUTIVE OFFICE,
Aug. 14, 1865.

In this case (the original papers having been mislaid) these copies are referred to the Hon. Secretary of War, who will please issue the necessary order to carry into effect the above recommendation made by me when military governor of Tennessee.

ANDREW JOHNSON,
Prest. U. S.

"Referred to the Adjutant-General to carry into execution the President's order.

E. M. STANTON,
Sec. of War.

F.

SPECIAL ORDERS No. 549. } WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, October 16*th*, 1865.

[Extract.]

* * * * * * *

3. To complete his record on the rolls, R. M. Edwards is hereby mustered into service as colonel, 4th Tennessee Cavalry, to date November 2, 1863, and mustered out and honorably discharged to date November 24th, 1864.

* * * * * * *

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant-General.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 110.

SARAH G. SMITH.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3561.]

The Committee on War Claims, to whom was referred the bill (H. R. 3561) for the relief of Sarah G. Smith, executrix and devisee of Francis L. Smith, submit the following report:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 322, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1131) for the relief of Sarah G. Smith, executrix and devisee of Francis L. Smith, report as follows:

In January, 1864, the United States military authorities took possession of a lot of ground in Fairfax County, Va., near the city of Alexandria, owned by the late Francis L. Smith, deceased, of that place, by accurate survey 1 acre 1 rood and 28 poles. It was used by the superintendent of contrabands, under the direction of Capt. F. K. Church, assistant quartermaster, United States Volunteers, for the burial of all deceased colored men, both soldiers and others, until December, 1864, when soldiers were ordered to be buried in the national cemetery, and then colored soldiers buried in this lot were exhumed and reinterred in the national cemetery. The first soldier was buried in this lot of Mr. Smith's in May, 1864, and the interment of soldiers there was continued until under orders the lot and the charge thereof was transferred to Capt. J. G. C. Lee, depot quartermaster. At this time the Freedmen's Bureau was not in existence, and all matters connected with the burial of colored persons was in the hands of the military governor.

During 1864 upwards of one hundred and twenty colored soldiers were buried in this lot, together with contrabands. In December, 1864, and the early part of 1865, the remains of the colored soldiers were, as stated, disinterred and removed to the soldiers' cemetery, thus leaving the lot in question a special depository for the remains of deceased freed people, for which purposes it has been used up to the present time. There are now over twelve hundred graves in this cemetery. It is fully established by the papers in the case in the War Department, the statements of the United States officers who took the lot and established this cemetery as above stated, that it was taken possession of by the United States military authorities and used by the Government, first for the interment of colored people, then styled contrabands, and subsequently as a burial place for the freedmen under the control of the Freedmen's Bureau.

All the taxes on this lot were regularly paid by Mr. Francis L. Smith in his lifetime, and since his decease they have been paid by his widow, who is his executrix and sole devisee. No steps were ever taken to confiscate this lot. Mrs. Smith's title is of record and is unquestionable.

The action of the Government has destroyed its value to its owner, and it is a case where private property has been taken by the United States without due process of law and without any compensation having been made to the owner thereof.

It appears from the papers obtained from the War Department, that in 1867 Mr. Francis L. Smith, deceased, offered to sell it to the Government and make a good title thereto for the sum of $1,000. On March 19, 1867, Brig. Gen. E. Whittlesey, acting assistant commissioner of freedmen, indorsed on this offer of Mr. Smith's a "recommendation that this land be purchased as a cemetery for freed people."

On May 22, 1868, the Quartermaster-General referred the papers in the case to Gen. Charles H. Tompkins, depot-quartermaster at Washington, for a "report as to whether the bodies interred in the ground referred to are of colored soldiers or of freedmen, civilians, etc." Gen. Tompkins referred the papers "for report in answer to the inquiries of the Quartermaster-General" to Lieut. Col. James M. Moore, assistant quartermaster, who on May 29, 1867, reported that—

"This cemetery is exclusively used for the interment of freedmen, of which number there are between six and eight hundred; no colored soldiers are buried in this inclosure."

The soldiers as stated above, had then all been removed.

"The site contains nearly one and a half acres, and I would respectfully give, as my opinion, that the price asked, viz, $1,000, is in excess of the real value of the land. Should the Department purchase, I would deem $800 a fair and equitable compensation."

The United States, as stated, have used and occupied this lot of ground for their own purposes for over twenty-six years; its real owners, Mr. Smith and his devisees, during the whole period paying the taxes thereon. Your committee think that under the circumstances the value of the property, as given by Col. Moore, with interest on said sum for the whole period of its occupancy by the Government, would be a fair and just compensation for the land and for its use and occupation. Your committee accordingly report back the bill with the recommendation that it do pass, with the following amendment:

In line 3 strike out "three thousand four hundred" and insert in lieu thereof the words "two thousand and forty-eight."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 111.

NEMIAH GARRISON.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3508.]

The Committee on War Claims, to whom was referred the bill (H. R. 3508) for the relief of Nemiah Garrison, assignee of Moses Perkins, submit the following report:

This claim was submitted to the Fiftieth Congress and a report was made thereon by the Committee on Claims. As the investigations of your committee have led them to substantially the same results as those arrived at by the committee of the Fiftieth Congress, it is deemed unnecessary to recapitulate the facts. A copy of the report in the Fiftieth Congress is attached hereto for information and made a part of this report.

Your committee recommend that the bill do pass.

[House Report No. 610, Fiftieth Congress, first session.]

The Committee on Claims have considered House bill No. 7109, for the relief of the executor or administrator of the estate of Nehemiah Garrison, assignee of Moses Perkins, and recommend that it do pass, with the following amendment: Strike out the words "with interest," in line 7.

This matter received the favorable consideration of the Committee on Claims in the Forty-fifth Congress. The following report from that committee is adopted and made part hereof:

The Committee of Claims, to whom was referred the bill H. R. 966, have had the same under consideration, and present the following report thereon:

The facts upon which this claim are based were investigated and determined by the Court of Claims, which rendered judgment against the United States on the 23d day of March, A. D. 1860, as fully appears by a report of the proceedings had in said court made to the first session of the Thirty-sixth Congress (Report Court of Claims No. 252). A copy of the opinion of said court in the case is hereto attached and made part of this report.

Your committee report back said bill, with an amendment, as follows, viz: In line 7, strike out the words "with interest;" and, thus amended, recommend its passage.

IN THE COURT OF CLAIMS.

MARCH 23, 1860.

NEHEMIAH GARRISON, ASSIGNEE OF MOSES PERKINS,
vs.
THE UNITED STATES.

LORING, J., read the opinion of the court:

In the year 1837 a company of mounted infantry, under the command of Capt. Buffington and in the service of the United States, entered on the plantation of Moses Perkins, in the county of Cherokee, in the State of Georgia, and erected a fort there, and occupied it until the 3d of July, 1838. The timber for the erection of the fort and its barracks, sheds, etc., and the wood used for fuel, were cut from the plantation, and for this and for the destruction of timber by Indians detained at the fort as prisoners $750 are claimed, according to the specification in the account annexed to the petition.

The evidence shows that Moses Perkins was in possession of the plantation at the time of the entry, etc., and such possession, coupled with the deeds of conveyance to him shown in the record, is sufficient evidence of his title, none other having been put in evidence by the United States. The evidence from the Treasury Department shows that Capt. Buffington was in the service of the United States. His own deposition shows he was directed by the commanding officer ("Gen. John E. Wool, as well as he now remembers") to remove his command to some place in the neighborhood of Canton, to select a site and build a fort; that in the execution of these orders "he marched accordingly, selected the site on the lands of Moses Perkins, and erected the fort thereon called Fort Buffington" (p. 7, ans. 4); that he made a report to the commanding officer at New Echota that he had selected a site and gone to work (p. 7, ans. 2 and 4); that he occupied it with his troops from some time in October, 1837 ("the precise date not now remembered, but believes it to be about the 16th day"), until July 3, 1838, and that while there the troops used the timber of said Moses Perkins as if it belonged to the United States (p. 8, ans. 4); that the fort was occupied a part of the time by an additional company of infantry, and that he had, as prisoners under his command a portion of the time, about thirteen hundred Indians (p. 8).

At the time of the transaction, August 20, 1838, Capt. Buffington certified to the correctness of the account which the petitioner now claims, and in his deposition in this case, being asked, on the part of the United States, 1st, "Was your attention called at any time to the specific items in the plaintiff's account and can you speak as to their value in detail?" (p. 5), he answered that his attention was called to the various items of the account before he gave the certificate, and that he certified to the same considering it in detail and believing it to be just (2, p. 8).

The testimony of Capt. Buffington is corroborated by that of John H. Wood, quartermaster at Fort Buffington, and of N. J. Perkins, a soldier there. These witnesses speak of matters within their personal knowledge, and there is no conflicting testimony (Record, pp. 7, 8, 9, 10); and the communication from the Quartermaster-General's Office, Washington, September 23, 1858, states that "*the charge is reasonable.*"

The orders given to Capt. Buffington authorized the entry on the land, the construction of the fort, etc., and the use of the timber for that purpose and for fuel; and the manner of doing all this was committed to his discretion. His acts, therefore, in these matters are the acts of the United States.

The timber so cut and used was private property taken for public use and the United States are bound to pay Moses Perkins for it at its fair value.

The testimony of Capt. Buffington as to the items of the account, with the general affirmation of the account by the other witnesses, is evidence of the fact stated in the account that timber was destroyed by Indian prisoners. The United States carried and kept the Indians there, and it was their duty, therefore, so to keep them that they should not injure others; and on this obligation they are liable to repair the injury done by the Indians.

The witnesses concur in the statement that the amount claimed in the account ($750) is a reasonable charge, and the correctness of their estimate is admitted at the office of the Quartermaster-General.

We are of opinion that the evidence proves that the United States were indebted in the sum of $750, according to the specification in the account on record, to the petitioner, to Nehemiah Garrison; and that he legally assigned his claim to the petitioner, who is, according to his prayer, entitled to relief therefor.

A bill will be reported to Congress for the relief of Nehemiah Garrison in the sum of $750.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 112.

A. L. H. CRENSHAW.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2410.]

The Committee on War Claims, to whom was referred the bill (H. R. 2410) for the relief of the legal representatives of A. L. H. Crenshaw, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Forty-sixth Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 108, Forty-sixth Congress, third session.]

The Committee on War Claims, to whom was referred the petition of Aaron L. H. Crenshaw, of Jackson County, Mo., respectfully submit the following report:

The petitioner asks compensation for fifty-five mules, which, together with other property, were forcibly and unlawfully taken from him by United States officers under command of Gen. Thomas Ewing, in Missouri, in the month of September, 1863; for the loss of said mules he claims the Government was rendered liable by subsequently taking possession of them.

His claim was referred for investigation to a board of Army officers convened at Kansas City, Mo., who, after full inquiry into the facts of the case, reported, under date of September 6, 1864, that Crenshaw, a licensed cattle and mule broker, resided in Jackson County, Mo., and an unconditional Union man, was the victim of a conspiracy organized by Lieut. Lindsey, Eleventh Kansas Volunteers; Wiley Aiken; W. Logan, a Government detective; John Hampton; Andrew Hammond, and Maj. Plumb, provost marshal, district of the border, to rob him of his property; that said Wiley Aiken handed Crenshaw two letters, with the request to deliver at a certain crossroad; but, being an old man, Crenshaw could not read the address, put the letters in his pocket; whereupon they were demanded of him by Lieut. Lindsey, one of them proving to be from a Mrs. Page to her a husband, a rebel, a fact of which Crenshaw, until then, was ignorant, because of his inability to read; that he was at once arrested and confined four days in jail in Independence, Mo., where he was visited by Capt. Graham, acting quartermaster, who, though he knew that Crenshaw was a loyal man, demanded as a condition of his release that he would show where Quantrell had his camp; that he assured Graham he did not know, whereupon the latter told him to make his peace with God, for he had to die; that Graham confiscated his hay and corn and burned his house, but failed to charge himself with these supplies; that Crenshaw was then sent to Kansas City and confined in a cell under the court-house, from whence he was taken during the night following by Government Detective Logan, who had an order from Maj. Plumb, provost marshal, for his delivery; that after removing Crenshaw from prison, Logan questioned him as to his money and purchases and sales of stock, noting the answers made in a book; that while in Logan's custody on this occasion they were joined by two men, John Hampton and Andrew Hammond, who seized hold of and tried to force him into a ravine outside

of the city, and upon his resistance drew pistols and threatened to kill him, the while questioning him as to his stock, and proposing to purchase of him 100 head of cattle for $100; that he offered to give them the cattle if they would not kill him, and he was then returned to prison; that, on the 11th of September, 1863, Kingsley, chief of the detectives, took him out of prison on an order from Maj. Plumb, and offered him $150 for one hundred cattle, stating that he must "trust to honor" for the money; that on the following day Logan came with another order from Maj. Plumb, took Crenshaw into a room where he executed a bill of sale for one hundred cattle and thirty hogs, consideration specified $650, with the understanding that he was only to receive $150, but that he never received a cent; that these men continued to threaten and maltreat Crenshaw until they obtained from him bills of sale of all his property, and orders for its delivery; that the mules now claimed for, being a part of the property so obtained, were sold to Clark, Gruber & Co., of Leavenworth, Kans.; that Gen. Ewing, not recognizing Clark, Gruber & Co. as the rightful owners of the mules, ordered that they should hold them for the Government, and took their bond to secure compliance with his order; that Gen. Ewing was shortly afterwards relieved by Gen. Curtis, who permitted the mules to be sent away and sold.

The board in conclusion recommend:

1. The nineteen mules which Gen. Ewing says were put in a Government train should be settled for.

2. The eleven head of horses which were given to the Lawrence committee should be settled for.

3. The hay and corn seized by Quartermaster Graham should be settled for.

4. The fifty-five mules in the hands of Clark, Gruber & Co., held by bond to Gen. Ewing for delivery, should be settled for or returned to Crenshaw.

Judge-Advocate-General Holt concurs in the findings of the board; and the Quartermaster-General states that the property mentioned in the above recommendation, except the fifty-five mules, has been paid for by the Government.

Respecting this portion of the claim, the Judge-Advocate-General, in his report to the Secretary of War, says:

"That Crenshaw has, probably, a valid claim for the value of the mules taken from him under the bill of sale to Logan, and which were afterwards transferred to Clark, Gruber & Co., and by them disposed of; but as this claim can only be made good by recourse to Congress it need not here be discussed. As part of the history of this transaction, however, it may be said that the felonious act of the United States officials, Logan and Kingsley (which is said to constitute the crime of robbery under the laws of Missouri), in obtaining the property, the apparent error of Gen. Ewing, in allowing it to remain in the hands of Clark, Gruber & Co. after he had been fully advised of all the facts in the case, and the neglect or omission of his successor, Gen. Curtis, to make any order in regard to it, so that at length the holders were enabled to put it out of the way, are circumstances which together would seem to raise an equity in favor of Crenshaw, and to entitle him to a favorable adjudication upon his claim."

Your committee are of the opinion that the proof sustains the taking of the mules, that the claim is a just one, and that Mr. Crenshaw is entitled to compensation for said mules, fifty-five in number, at $125 per head, as a reasonable and fair compensation.

Your committee therefore report the accompanying bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 113.

CAPT. I. B. WEBSTER.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, of Missouri, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1142.]

The Committee on War Claims, to whom was referred the bill (H. R. 1142) for the relief of Capt. I. B. Webster, of Louisville, Ky., submit the following report:

A similar bill to the one now presented (H. R. 1142) was favorably reported by the Committee on War Claims of the last Congress, but the bill was never reached on the calendar. This bill is a claim for pay for services rendered by I. B. Webster prior to muster.

It appears from the petition and exhibits filed in support thereof that I. B. Webster was commissioned as lieutenant-colonel Tenth Regiment Kentucky Volunteers, and served in that capacity from September 28 to November 12, 1861.

Claimant filed his claim in the War Department and it was refused on the ground that the claimant had never been legally commissioned to that office.

Your committee is of opinion that the claimant should be paid, and therefore report back the bill and recommend its passage.

[House Report No. 2678, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 10649) for the relief of Capt. I. B. Webster, of Louisville, Ky., report as follows:

This is a claim for pay for services rendered by I. B. Webster prior to muster.

It appears from the petition and evidence filed in support thereof, that I. B. Webster was commissioned as lieutenant-colonel Tenth Regiment, Kentucky Volunteers, and served in that capacity from September 28, 1861, to 12th of November, 1861.

Claimant filed his claim in the War Department, and was rejected on the ground that claimant had never been legally commissioned to that office.

Your committee is of opinion that the claimant should be paid, and report back the bill and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 114.

EZRA S. HAVENS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 2.]

The Committee on War Claims, to whom was referred the bill (S. 2) for the relief of Ezra S. Havens, submit the following report:

The facts out of which this bill for relief arises will be found stated in Senate report from the Committee on Military Affairs of the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

Senate Report No. 1953, Fifty-first Congress, second session.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 4288.]

The Committee on Military Affairs, to which was referred the bill for the relief of Ezra S. Havens, have duly considered the same and submit the following report:

This bill directs the accounting officers of the Treasury Department to pay to E. S. Havens the pay and allowances of captain of infantry from the 11th of March, 1862, to the 2d day of February, 1863.

This is a somewhat peculiar case.

In 1861 a regiment known as the Eighteenth Missouri Infantry Volunteers was organized, and Ezra S. Havens was duly elected, in accordance with the laws and regulations authorizing its organization, the captain of Company G of said regiment, but for some reason, according to the official records, seems not to have been actually mustered when the regiment and the other companies were duly mustered into the service. Col. W. James Morgan was mustered into the service as colonel of the regiment.

By some means, in 1862, Madison Miller was mustered colonel of the regiment, and thereupon relieved from duty Captains Bell, of Company F; Sherman, of Company C; Havens; of Company G; and ten lieutenants of different companies. After this, Col. W. James Morgan, on March 21, 1862, submitted the list of officers so relieved by Colonel Miller to the War Department as having been discharged from duty by the governor of Missouri, and asked that they be reinstated, and stated thatt hey had received pay up to March, 1862.

Finally the governor of Missouri appealed to the War Department and stated that—

> After the regiment was mustered in, Lieutenant-Governor Hall, acting governor, appointed and commissioned Madison Miller colonel in place of Colonel Morgan, who was mustered in as colonel; that Colonel Miller, upon his own selection of officers, relieved Captain Havens from duty as well as several other of the officers who had been mustered in, and named other persons in their places, who were commissioned by the acting governor; the regiment has thus two sets of officers as far as these changes were made. I have always considered the officers mustered into the United States service entitled to commissions and would give commissions to those of the Eighteenth originally mustered but for the fact that commissions have been issued to other persons by the officer for the time being exercising the power of the governor of the State. I think the officer in command of the department where the regiment is doing duty has power, according to the practice of the Army recently established, to muster out of service those officers to whom commissions have thus been irregularly issued and then commissions can issue to those originally mustered.

This letter seems to have been sent to General Grant, who forwarded it to the War Department with the recommendation that such action

be taken as to give Captain Havens the position in the regiment to which he is entitled, as indicated in the indorsement of Governor Gamble. Finally orders were issued for the muster out of both sets of officers, and new commissions by the adjutant-general to those who might be selected. Under this order, in January and February, 1863, nearly all the officers who were relieved by Colonel Miller, and who had been ordered to be mustered out, were mustered out and were paid up to the date of their muster out from March 11, 1862. Captain Bell was paid from August 17, 1861, to February 2, 1863; Captain Sherman was paid from July 22, 1861, to February 2, 1863, and three of the lieutenants were paid up to February 2, 1863.

In short, all the officers placed in the same position in which Captain Havens was placed were paid up to the dates of their musters out under the orders of General Grant, while Captain Havens was only paid up to March 11, 1862.

Your committee think that Captain Havens is equally entitled to compensation from March 11, 1862, up to the date when he should have been mustered out with the other officers on February 2, 1863. According to an affidavit made by Captain Havens on the 1st of March, 1875, and referred to in the correspondence hereinafter set forth, he states that "on or before the 1st of February, 1863, he obtained recruiting orders from Brigadier-General Elliott to recruit a company for the Marine Brigade." This would indicate that was about the time he should have been mustered out as captain of Company G, Eighteenth Missouri Infantry. He was duly mustered in as captain of Company G, Mississippi Marine Brigade, to date March 11, 1863, and was paid as such captain up to and including January 22, 1865. The records also show that he was paid as captain of Company G in Eighteenth Missouri Volunteers up to and including March 11, 1862.

Your committee therefore believe that he is clearly entitled to compensation from March 11, 1862, to February 2, 1863; and accordingly report the bill back to the Senate favorably and recommend its passage.

Your committee attach hereto a letter from the War Department to Mr. Cockrell, dated July 10, 1890, and signed by Capt. F. C. Ainsworth, and the accompanying copies of letters referred to in said letter; and also attach a letter from said Ainsworth to Mr. Cockrell of date July 23, 1890; and also attach, following the same, a letter from the Second Auditor, with the accompanying statement of payments made to Captain Havens, dated July 15, 1890; and also a second letter from the Second Auditor, dated July 25, 1890. These sundry communications will give all the information in connection with this case, and clearly show the right of the claimant to the relief granted by this bill.

WAR DEPARTMENT,
Washington City, July 10, 1890.

SIR: In response to your communication of the 1st instant, received in this Department on the 3d instant, requesting to be furnished with the names of the commissioned officers of the Eighteenth Missouri Volunteers, as originally organized, as reorganized by Governor Hall, and as again organized by Governor Gamble, together with a full military history of Capt. Ezra S. Havens, Company G, said regiment, and the names, records, and copies of orders relative to other officers similarly situated, etc., all for use in the claim of said Captain Havens, I am directed by the Secretary of War to inform you that the records show that the original field officers of the Eighteenth Missouri Volunteers were all mustered into service November 5, 1861, for three years, and their names and rank as shown on the muster-in roll of field and staff are as follows:

Col. W. James Morgan, Lieut. Col. Isaac V. Pratt, Maj. Alfred Williams, Adj. Eugene W. Godfrey, Quartermaster Harry Lander, Surgeon Norman S. Hamlin, Chaplain John M. Garner, Assist. Surgeon William T. Torrey.

The following are the names and rank of the original company officers of said regiment as they appear on the first rolls of the companies with dates of their muster-in:

COMPANY A.

Capt. Jonas Durman, First Lieut. John R. Dayton, Second Lieut. George H. Morgan, all mustered in November 14, 1861, with company.

COMPANY B.

Capt. Henry P. Stults, mustered in November 14, 1861; recognized by this Department from September 4, 1861.

First Lieut. Calvin Morris, mustered in November 14, 1861; recognized from August 15, 1861.

Second Lieut. John H. Morgan, never mustered in nor recognized, no commission ever having been issued to him.

Company was mustered in November 14, 1861. David W. Pollock appears as second lieutenant of this company on roll for January and February, 1862, with remark, promoted second lieutenant January 31, 1862.

COMPANY C.

Capt. William P. Sherman, First Lieut. James G. Allen, Second Lieut. Henry M. Godfrey.

There is no muster-in roll of this company on file.

COMPANY D.

Capt. George W. Wychoff, First Lieut. Sylvester S. Collins, Second Lieut. Joseph R. Stille.

All mustered in November 14, 1861, with company.

COMPANY E.

Capt. Jacob L. Clark, First Lieut. Jacob R. Ault, Second Lieut. Elisha F. Springer.

All mustered in November 14, 1861, with company.

COMPANY F.

Capt. Francis M. Bell, First Lieut. Jefferson L. Harvey, Second Lieut. Jos. M. Pool.

All mustered in November 14, 1861, with company.

COMPANY G.

Capt. Ezra S. Havens, First Lieut. John Howery, Second Lieut. James D. Coddington.

All (except Havens) mustered in November 14, 1861, with company.

COMPANY H.

Capt. Peter R. Dolman, First Lieut John J. Heisel, second lieutenant, none on muster-in roll. All mustered in November 14, 1861, with company. Frederick Partinhimer appears to have been elected second lieutenant of this company in January nary, 1862.

COMPANY I.

Capt. John T. Mickersell, First Lieut. Absolom Wells, Second Lieut. Richard F. Fullis. Lieutenant Wells was mustered in November 14, 1861, with company, and has been recognized from November 1, 1861. Captain Mickersell and Lieutenant Fullis were elected December 26, 1861, and first appear on roll of February 28, 1862.

COMPANY K.

Capt. James A. Price, First Lieut. Woodson S. Estes, Second Lieut. James A. Stults. Date of muster-in of officers or company not shown. Second Lieutenant Stults has been recognized from February 1, 1862.

Madison Miller having been commissioned colonel of the regiment, notified the chief paymaster, Department of the Missouri, under date of March 11, 1862, that "the following-named officers in the regiment not having been commissioned by the governor of this State are relieved from further duty:"

Captain Bell, Company F; First Lieut. I. F. Harvey, Company F; Second Lieut. John Pool, Company F; Capt. W. P. Sherman, Company C; First Lieut. I. G. Allen, Company C; Second Lieut. George Morgan, Company A; First Lieut. Calvin Morris, Company B; Second Lieut. David W. Pollock, Company B; First Lieut. Sylvester S.

Collins, Company D; Captain Havens, Company G: First Lieut. Absolom Wells Company I; First Lieut. W. S. Estes, Company K; Second Lieut. James A. Stults, Company K.

Under date of March 21, 1862, Col. W. James Morgan submitted a list of the above officers to this Department as having been discharged from duty by the governor of Missouri and asked that they be reinstated, and stated that they had received pay up to March, 1862.

The following officers appear to have been commissioned by the governor of Missouri in place of those relieved March 11, 1862:

Henry M. Godfrey, commissioned March 10, 1862; mustered in as second lieutenant Company E, August 27, 1863, to date from March 11, 1862.

John R. McEfee, commissioned March 10, 1862; mustered in as second lieutenant Company E, May 17, 1884, to date from March 12, 1862.

Daniel R. Hudson, commissioned March 10, 1862; recognized as first lieutenant Company K from March 28, 1862.

William Hemstreet, commissioned April 2, 1862; mustered in as first lieutenant Company G, August 27, 1863, to date from April 15, 1862.

George W. Bywater, commissioned March 10, 1862; recognized as first lieutenant Company C, from March 12, 1862.

Darius A. Cudworth, commissioned June 7, 1862, to rank from March 1, 1863; recognized as regimental quartermaster from March 1, 1862.

Edward S. Donnelly, commissioned March 10, 1862; mustered as first lieutenant Company E, August 27, 1863, to date from April 8, 1862.

William A. Edgar, commissioned March 10, 1862; recognized by this Department as adjutant from March 10, 1862.

William H. Minter, commissioned March 10, 1862; mustered in as first lieutenant Company K, August 27, 1863, to date from December 24, 1862.

James A. Price, commissioned March 10, 1862; recognized by this Department as captain Company from February 15, 1862.

William H. Cooper, commissioned March 16, 1862; recognized by this Department as captain Company C from April 1, 1862.

Frederick Partenheimer, commissioned March 10, 1862; mustered in as second lieutenant Company H, August 27, 1863, to date from March 12, 1862.

Herewith is a copy of letter from this Department to the governor of Missouri, dated November 24, 1862, authorizing the appointment of a new set of officers for the regiment, and of letter from this Department to Maj. Gen. U. S. Grant, commanding Thirteenth Army Corps, same date, directing the muster-out of the officers not commissioned.

Extract copy of Special Orders, No. 20, Paragraph 5, January 20, 1863, Department of the Tennessee, publishing list of officers appointed by the governor of Missouri, December 4, 1862, to the Eighteenth Missouri Volunteers, and directing the muster-out of all such officers of the regiment not therein named, is also herewith.

The records show that Ezra G. Havens joined Company B, Eighteenth Missouri Volunteers, June 17, 1861, was elected sergeant same day, was transferred to Company G August 31, 1861, and elected captain.

Herewith is a copy of a report from the Adjutant-General of the Army, dated February 18, 1888, upon a bill introduced for the relief of Captain Havens, which embraces in full his military history as an officer of the Eighteenth Missouri Volunteers.

He reentered the service and was mustered in as captain Company G, First Mississippi Marine Brigade, March 11, 1863, for three years, and is reported on rolls for March and April, 1863, "present;" May and June, 1863, "absent sick since May 21, 1863." July and August, 1863, "present;" so borne to June 30, 1864; transferred to Company H, same regiment, August 26, 1864, and is reported on roll of that company for July and August, 1864, "present;" so borne to December 31, 1864; was mustered out with company by reason of their services being no longer required, January 23, 1865, to date January 22, 1865.

The number of men recruited by him for Company G, Eighteenth Missouri Volunteers, as shown by the records, is 51; recruited between July 1 and November 1, 1861.

Of the officers relieved from further duty with the regiment by Colonel Miller, March 11, 1862, not having been commissioned by the governor of Missouri, David W. Pollock, of Company B, appears to have been the only one who *continued* to serve with the regiment after that date.

The records show that the said David W. Pollock was present with his company, acting as second lieutenant, to May 1, 1862, and from that date acting as first lieutenant to February 27, 1863, from which date he was mustered in as second lieutenant; and that he served as such to September 18, 1863, from which date he was mustered in and served as first lieutenant to January 19, 1865, when mustered out by reason of expiration of term of service.

Of the other officers so relieved, it appears that Second Lieut. George H. Morgan, Company A; First Lieut. Calvin Morris, Company B; Capt. W. P. Sherman, Com-

pany C; First Lieut. J. G. Allen, Company F; Capt. Francis M. Bell, Company F; First Lieut. Jefferson L Harvey, Company F; Second Lieut. Jos. M. Pool, Company F; First Lieut. W. S. Estes, Company K, all rejoined their commands, under orders of General Curtis, issued in the early part of October, 1862, and were mustered out of service to date February 2, 1863, under the instructions from this Department to General Grant, dated November 24, 1862; and that First Lieut. Sylvester H. Collins, Company D; First Lieut. Absolom Wells, Company I; and Second Lieut. James A. Stults, Company K, were mustered out of service to date respectively, December 4, 1862, January 20, 1863, and January 27, 1863, never having, however, rejoined their commands.

Copy of Special Orders No. 5, paragraph 5, September 29, 1862, Department of the Missouri, directing Captain Havens to report at headquarters of the Army of the Mississippi, Corinth, Miss., with the indorsements thereon, is herewith.

It appears from a report of Capt. Jacob R. Ault, commanding the Eighteenth Missouri Volunteers, dated October 19, 1862, that Captain Havens reported to the regiment for duty on or about that date, but the records fail to show that he was assigned to duty.

The information you desire relative to the payment of these officers is not of record in this Department, but may be obtained from the Second Auditor of the Treasury.

Very respectfully,

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

Hon. F. M. COCKRELL,
United States Senate.

[SPECIAL ORDERS, No. 5.] HEADQUARTERS DEPARTMENT OF THE MISSOURI,
St. Louis, Mo., September 29, 1862.

* * * * * * *

V. Capt. E. T. Havens, Company G, Eighteenth Missouri Volunteers, will report as soon as practicable at the headquarters of the Army of the Mississippi, Corinth, Miss.

By command of Major-General Curtis:

H. Z. CURTIS,
Assistant Adjutant-General.

[Indorsements.]

ST. LOUIS, *October* 1, 1862.

I am informed that the Eighteenth Missouri Volunteers was mustered into the service of the United States as a regiment; that the Company G was mustered in with Captain Havens as captain; that after the regiment was mustered in Lieutenant-Governor Hall, acting governor, appointed and commissioned Madison Miller colonel of the regiment, in place of Colonel Morgan, who was mustered in as colonel; that Colonel Miller, upon his own selection of officers, relieved Captain Havens from duty, as well as several other of the officers who had been mustered in, and named other persons in their places, who were commissioned by acting governor. The regiment has thus two sets of officers as far as these changes were made. I have always considered the officers mustered into the United States service entitled to commissions and would give commissions to those of the Eighteenth, originally mustered, but for the fact that commissions have been issued to other persons by the officer for the time being exercising the power of governor of the State. I think the officer in command of the department where the regiment is doing duty has power, according to the practice of the Army recently established, to muster out of service those officers to whom commissions have thus irregularly issued and then commissions can issue to those originally mustered.

This indorsement is made upon the information presented to me verbally and written by officers who were originally mustered.

H. R. GAMBLE,
Governor of Missouri.

HEADQUARTERS DISTRICT WEST TENNESSEE,
Jackson, Tenn., October 9, 1862.

Respectfully forwarded to headquarters of the Army, Washington, D. C., and recommend that such action be taken as to give Capt. E. T. Haven the position in the regiment to which he is entitled as indicated in the indorsement of Governor Gamble.

U. S. GRANT,
Major-General Commanding.

ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., November 24, 1862.

GENERAL: I am directed by the Secretary of War to inclose you copy of a letter to his excellency the governor of Missouri, in which reference is made to two sets of officers for the 18th Missouri Volunteers.

So soon as the governor appoints the new officers, for which he has the authority of the War Department, you will please cause the others to be mustered out of service. A copy of this letter has been furnished his excellency (the governor of Missouri).

I am, your obedient servant,

THOMAS M. VINCENT,
Assistant Adjutant-General.

Maj. General U. S. GRANT,
Commanding Thirteenth Army Corps.

Via Corinth, Miss.

ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., November 24, 1862.

GOVERNOR OF MISSOURI,
St. Louis, Mo.:

SIR: I am directed by the Secretary of War to inform you that the set of officers of the Eighteenth Missouri Volunteers mustered in, but not commissioned, under W. J. Morgan, colonel, and the second set for same organization, commissioned by the lieutenant-governor, will be mustered out of service by instructions which will issue from this office to-day.

To fill the vacancies created in the said regiment, you have authority from the Secretary of War to appoint and commission new officers.

I have the honor to be, very respectfully, your obedient servant,

THOMAS M. VINCENT,
Assistant Adjutant-General.

[Extract.]

SPECIAL ORDERS, No. 20.] HEADQUARTERS DEP'T OF THE TENNESSEE,
Memphis, Tenn., January 20, 1863.

* * * List of officers appointed 4th December, 1862, by his excellency H. R. Gamble, governor of Missouri, to Eighteenth Regiment Missouri Infantry Volunteers.

Rank.	Name.	Rank.	Name.
Colonel	Madison Miller.	Second lieutenant, Co. D	
Lieutenant-colonel	Charles S. Sheldon.	Captain, Co. E	Elwood M. Miller.
Major		First lieutenant, Co. E	Kenton F. Bremon.
Adjutant	Edwin J. Conway.	Second lieutenant, Co. E	Abijah Everett.
Quartermaster	D. A. Cudworth.	Captain, Co. F	William H. Minter.
Surgeon	Samuel B. Houts.	First lieutenant, Co. F	James D. Coddington.
First assistant surgeon		Second lieutenant, Co. F	Rollin B. Gray.
Second assistant surgeon		Captain, Co. G	Jacob R. Ault.
Chaplain	John M. Garner.	First lieutenant, Co. G	William Hemstreet.
Second lieutenant, Co. B	David W. Pullock.	Second lieutenant, Co. G	
Captain, Company A	Jonas Durman.	Captain, Co. H	Peter R. Dolman.
First lieutenant, Co. A		First lieutenant, Co. H	
Second lieutenant, Co. A	Oliver H. Dodge.	Second lieutenant, Co. H	A. L. Bergfeld.
Captain, Company B	Henry P. Stults.	Captain, Co. I	John P. Mickosell.
First lieutenant, Co. B	Daniel R. Hudson.	Second lieutenant, Co. I	Richard F. Fallis.
Captain, Company C	Edward S. Donnelly.	First lieutenant, Co. I	John R. McEffee.
First lieutenant, Co. C	H. Pagin.	Captain, Co. K	
Second lieutenant, Co. C	Henry W. Godfrey.	First lieutenant, Co. K	Frederick Partenheimer.
Captain, Co. D	George W. Wyckoff.	Second lieutenant, Co. K	William Edgar.
First lieutenant, Co. D	Joseph R. Stille.		

Official.

WM. D. WOOD,
Acting Adjutant-General of Missouri.

In pursuance of instructions from the Secretary of War, Capt. E. D. Phillips, First U. S. Infantry, is hereby detailed to muster out of the service of the United States all such officers of the Eighteenth Regiment, Missouri Infantry Volunteers, as are not named in the foregoing list. He will proceed to muster them out immediately and forward copies of the muster to the Adjutant-General of the Army, Washington, D. C., and to the adjutant-general of the State of Missouri through these headquarters.

By order of Maj. Gen. U. S. Grant.

(Not signed)
Assistant Adjutant-General.

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
February 28, 1

SIR: I have the honor to submit herewith a letter of Hon. A. M. Dockery, M. C., dated the 17th ultimo, inclosing a bill introduced last Congress for the relief of Capt. Ezra S. Havens, late of the Eighteenth Missouri Volunteers, and requesting to be advised of the facts in his case, and to report as follows:

The records of this office show that Ezra S. Havens recruited fifty-one men for Company G, Eighteenth Missouri Volunteers, and that the company was mustered into service November 14, 1861, as "Havens's company," but for some reason not shown by the records he (Havens) was not mustered in with it.

His name is borne on the company rolls as "captain present, com'd Co.," from date of muster in of company to February 28, 1862. Captain Havens's name is dropped from the company roll for March and April, 1862, and the name Jacob R. Ault appears thereon as captain, with the remark, "Assigned to duty March 10, '62."

The Eighteenth Missouri Volunteers was mustered into service with officers elected by the men; but subsequently the acting governor of Missouri (Hall) commissioned Madison Miller colonel of the regiment, who, on his muster in as such, relieved some of the old officers (Havens among the number) and had others commissioned in their stead.

That action having raised a controversy, the governor of Missouri was, on November 24, 1862, by direction of the Secretary of War, notified that to settle the matter both sets of officers were to be mustered out, and the governor was authorized to appoint and commission a new set.

In accordance therewith General Grant, in whose command the regiment was serving, was, on the same day, directed upon the receipt of the list selected by the governor to muster out all former officers of the regiment whose names should not appear thereon.

The list having been forwarded by the governor December 4, 1862, was promulgated January 20, 1863, in special orders, Department of the Tennessee, and by circular of January 25, 1863, from regimental headquarters, Eighteenth Missouri Volunteers, such officers as had not been selected by the governor were notified of their muster out.

The circular referred to embraced a list of those mustered out, but Havens's name appeared neither on the list of officers selected by the governor nor on the list of officers mustered out, for the reason that, while the officers who had not been selected by the governor remained with the regiment until they were mustered out January 20, 1863, Mr. Havens left his company March 11, 1862, when relieved from command by Colonel Miller, and did not thereafter return to it.

Jacob R. Ault succeeded Mr. Havens as captain Company G and was paid as such from March 11, 1862, to April, 1863.

Years later, in considering a claim for the recognition of Mr. Havens as captain from August 31, 1861, to January 20, 1863, his record was completed and he was mustered in as captain Company G, Eighteenth Missouri Volunteers, to date from November 14, 1861, and honorably discharged in orders from this office to date March 11, 1862, the date he was relieved from duty with and left his said company and regiment. The examination of his case showed that he had been paid as captain from August 31, 1861, to November 14, 1861, during which period he was only an enlisted man.

From the foregoing it will be seen that Captain Havens rendered no service to the Government as an officer of the Eighteenth Missouri Volunteers subsequent to March 11, 1862, and that another person (Jacob R. Ault) had been recognized and paid as captain Company G, Eighteenth Missouri Volunteers, from March 11, 1862, to April, 1863.

It is proper to add that there is no authority of law under which two officers of the same grade could be recognized for the same period in the same company.

I am, sir, very respectfully, your obedient servant,

R. C. DRUM,
Adjutant-General.

The Hon. SECRETARY OF WAR.

WAR DEPARTMENT,
Washington City, July 23, 1890.

SIR: In reply to your letter of the 19th instant (received the 21st instant), stating that it appears from papers you have received from the Second Auditor that when Capt. Ezra S. Havens was relieved from duty March 11, 1862, as captain Company G, Eighteenth Missouri Volunteers, he was assigned to duty as a recruiting officer for the Mississippi Marine Brigade, and requesting copies of any orders assigning or detailing him to such duty, or any other special duty, and to be advised of the length of time he remained upon such duty, I am instructed by the Secretary of War to inform you that, although careful search has been made, no order has been found assigning or detailing Captain Havens to duty as a recruiting officer for the Mississippi Marine Brigade, or any other special duty, from March 11, 1862, to March 11, 1863, the date of his muster in as captain Company G, First Mounted Infantry, Mississippi Marine Brigade, save Special Orders, No. 5, paragraph 5, September 29, 1862, Department of the Missouri, directing him to report at headquarters of the Army of the Mississippi, a copy of which has been heretofore furnished you; nor has any record of such service been found.

It is proper to add that among the papers filed in his case in this Department is an affidavit made by Captain Havens on the 1st of March, 1875, in which he states that "on or about the 1st day of February, A. D. 1863, he obtained recruiting orders from Brigadier General Elliott (Ellet) to recruit a company for the Marine Brigade."

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

Hon. F. M. COCKRELL,
United States Senate.

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
Washington, D. C., July 15, 1890.

SIR: In compliance with your request of 12th instant, which is returned herewith, I inclose a statement of all payments made to Ezra S. Havens as an enlisted man and officer of the Eighteenth Missouri Volunteer Infantry, Mississippi Marine Brigade and Marine Regiment.

On December 14, 1874, Captain H. filed his application for pay from March 11, 1862, to which date he had been paid as captain of Company G, Eighteenth Missouri Volunteers, to the date of his actual discharge in 1863. He submitted testimony, a copy of which is forwarded herewith, showing that he was not discharged March 11, 1862, but merely relieved from duty, with several others, at the instance of Col. Madison Miller, commanding the regiment. It also appears that Colonel Miller, without waiting for the discharge of these officers, and while they were still held to service, had others commissioned and assigned to duty in their stead, thus furnishing the regiment partially with a double set of officers.

It appears that when Captain Havens was relieved from duty with the regiment he was assigned to duty as a recruiting officer for the Mississippi Marine Brigade, then being organized at St. Louis, Mo. The order detailing him on recruiting service is not on file, but it, with the evidence of his continuance on that duty, can probably be procured from the War Department.

The Mississippi Marine Brigade consisted originally of a battalion of cavalry, a battery of artillery, and a regiment of infantry. In August, 1864, the cavalry and infantry were consolidated and designated as the Marine Regiment, Captain Havens's company (G) becoming Company H of the Marine Regiment.

The War Department refused to recognize Captain Havens as in service after March 11, 1862, and discharged him as of that date by Special Order No. 234, paragraph 5, dated October 6, 1884. (The "Volunteer Register," published officially by that Department in 1867, reports him discharged January —, 1863.) Hence, under existing statutes, my predecessor had no discretion but to disallow the claim, and the evidence of the officer's service between March 11, 1862, and March 11, 1863, was not fully examined. For the same reason the payment or nonpayment of the other officers, relieved as he was to the date of actual discharge, was not looked into. It will be seen that his witnesses claim that they were so paid. It is entirely possible that in this case rank injustice has been done to the officer.

Respectfully, yours,

J. N. PATTERSON,
Auditor.

Hon. F. M. COCKRELL,
United States Senate.

Statement of payments made to Ezra S. Havens, late sergeant and captain, Eighteenth Missouri Infantry; captain, Mississippi Marine Brigade; and captain, Marine Regiment.

By whom paid.	When paid.	Where paid.	Voucher.	Account.	Rank or grade.	Company.	Regiment.	Period paid for		Am'nt paid.	Remarks.
								From—	To—		
Maj. J. H. Phinney	Feb. 25, 1862	Not stated	637	*847	Sergeant	B	18th Mo. Inf.	July 1, 1861	Aug. 31, 1861.	$34.00	Should have been paid from June 17. Short paid $7.93.
Do	....do	....do	637	847	Captain	G	....do	Aug. 1, 1861	Dec. 31, 1861.	495.13	Not paid for responsibility, arms and clothing. Short paid $40.
Maj. N. W. Brown	April 1, 1862	St. Louis, Mo	71	264	....do	G	....do	Jan. 1, 1862	Mar. 11, 1862	306.32	Short paid $1.01.
Maj. V. C. Hanna	June 22, 1863	Not stated	136	498	....do	G	Inf. M. M. B.	Mar. 11, 1863	Apr. 30, 1863	210.22	Income tax ($3.93) deducted from amount due.
Do	July 20, 1863	Vicksburg, Miss	20	783	....do	G	....do	May 1, 1863	June 30, 1863	†253.75	Income tax ($4.75) deducted from amount due.
Do	Sept. 11, 1863	Near Bolivar Landing, Miss.	18	783	....do	G	....do	July 1, 1863	Aug. 31, 1863	255.20	Income tax ($4.80) deducted from amount due.
Do	Nov. 4, 1863	Paducah, Ky	17	783	....do	G	....do	Sept. 1, 1863	Oct. 31, 1863	253.75	Income tax ($4.75) deducted from amount due.
Do	Feb. 8, 1864	Milliken's Bend, La	20	783	....do	G	....do	Nov. 1, 1863	Dec. 31, 1863	253.74	Income tax ($4.76) deducted from amount due.
Do	Mar. 8, 1864	Vicksburg, Miss	37	783	....do	G	....do	Jan. 1, 1864	Feb. 29, 1864	252.29	Income tax ($4.71) deducted from amount due.
Do	May 9, 1864	Grand Lake, Ark	63	783	....do	G	....do	Mar. 1, 1864	Apr. 30, 1864	223.74	Income tax ($4.76) deducted from amount due.
Maj. J. C. Dickey	Sept. 22, 1864	Not stated	702	1367	....do	H	Marine Reg't	May 1, 1864	Aug. 31, 1864	505.74	Income tax ($12.76) deducted from amount due.
May. T. D. Greenwalt	Jan. 29, 1865	....do	1026	1020	....do	H	....do	Sept. 1, 1864	Jan. 22, 1865	648.15	Income tax ($22.03) deducted from amount due and $78.64 stopped on account of ordnance, etc. Travel pay and subsistence for 860 miles ($129) included in payment.

* Overstated. † Overpaid $13 on account of responsibility for arms and clothing while absent sick and not in command of company.

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
Washington, D. C., July 15, 1890.

I certify that the above is a correct statement of all payments made to the above-named officer, and that the erroneous payments noted are apparent only and subject to revision on a full investigation of the case.

J. N. PATTISON, *Auditor.*

TREASURY DEPARTMENT,
SECOND AUDITOR'S OFFICE,
Washington, D. C., July 25, 1890.

SIR: Your letter of the 19th instant is returned herewith. The officers of the Eighteenth Missouri Infantry therein referred to were paid as follows:

Capt. F. M. Bell, from August 17, 1861, to February 2, 1863.
Lieut. Sylvester S. Collins, from July 27, 1861, to December 4, 1862.
Lieut. Woodson S. Estes, from January 1, 1862, to February 2, 1863.
Lieut. Jefferson L. Harry, from August 17, 1861, to February 2, 1863.
Lieut. Calvin Morris, from June 17, 1861, to February 2, 1863.
Lieut. James P. Stultz, from January 1, 1862, to January 27, 1863.
Capt. W. P. Sherman, from July 22, 1861, to February 2, 1863.
Lieut. Absalom Wells, from August 1, 1861, to March 11, 1863.

Respectfully, yours,

J. N. PATTERSON,
Auditor

Hon. F. M. COCKRELL,
United States Senate.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 115.

GEORGE O. DONNELL.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5047.]

The Committee on War Claims, to whom was referred the bill (H. R. 5047) for the relief of George O. Donnell, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 1589, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2757) for the relief of George O. Donnell, have considered the same, and report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 2038, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3453) for the relief of George O. Donnell, submit the following report:

George O. Donnell, now a resident of Norwich, Conn., in needy circumstances and greatly impaired health, was enlisted in Company A, Second New York Heavy Artillery, in September, 1861, and served with that command for about two years and six months. He then reënlisted as a veteran for three years in the same organization.

In September, 1864, Donnell, while in active service with his artillery in front of Petersburg, Va., was attacked by chronic diarrhea. He was sent to City Point and thence to Mount Pleasant Hospital, Washington, D. C., from which hospital he was furloughed and sent home to Norwich, Conn. At the expiration of the furlough Donnell's attending home physician applied for an extension of furlough, which was granted. Three or four times afterwards his furlough was extended, and finally two accredited physicians made oath to his physical unfitness for service and sent same to the hospital authorities at Washington with his application for discharge; but the war being virtually ended the application was not acted upon, and Donnell, being at no time from the expiration of his last furlough up to September 29, 1865, the date of muster out of his command, able to travel and rejoin his artillery, was not mustered out and did not receive a discharge at the time of mustering out of his command.

According to the terms of Donnell's reënlistment he was to receive $402 as veteran bounty, to be paid in installments. There was paid him $162, leaving $240 still due him at the close of the war and at the time of the mustering out of his artillery. He

neither received any pay for service from the time of his first furlough; and so, as was found by the proper accounting officers of the Treasury and is of record and evidence, Donnell, at the time of the mustering out of the artillery, of which he had all the time continued an honorable member, though on sick furlough, and unfit for active duty during the latter months of its service, was entitled, on September 29, 1865, to bounty and pay amounting to $470.23.

Donnell continued in feeble health, much of the time bedridden, during the years immediately following the war, and his condition, as well as his ignorance of the proper methods of procedure, delayed any action looking to the obtaining of an honorable discharge and the bounty and pay due him for some years. In 1878, however, Donnell received an honorable discharge, and on October 8, 1878, applied in proper form for bounty pay. The application was disallowed on the ground that the records in the Paymaster-General's Office showed that George O. Donnell, Company A, Second New York Heavy Artillery, had received all pay and bounty due on January 17, 1866, at the subtreasury in New York City in check, No. 5538, drawn by James B. Sheridan, assistant paymaster-general, for $70.23, to George O. Donnell or bearer.

Donnell claims that the payment of this sum was fraudulently obtained by some person forging his signature and falsely impersonating him. Affidavits are in evidence that at and about the time of the payment (January 17, 1876), as shown by the Treasury records, to George O. Donnell of wages and bounty, the real Donnell was in North Oxford, Mass. It is further in evidence that Assistant Paymaster-General Sheridan, in giving check No. 5538 for $470.23 to George Donnell or bearer, marked the payment upon his discharge. As this was some twelve years before the real Donnell received his discharge papers, it would seem evident that not only was Donnell impersonated, but also were his discharge papers forged. There is also in evidence that the officials of the Treasury Department sought to discover the impersonator of Donnell, but while at least one person was implicated in the alleged fraud, positive evidence for conviction could not be obtained.

The reliability of Donnell's own statements are vouched for by prominent citizens of Connecticut and Massachusetts, and the direct evidence submitted in the case, and all the circumstances surrounding it, lead the committee unanimously to believe that Donnell has been deprived of bounty and pay by the fraudulent representations of an impersonator, and therefore recommend the passage of this special act, as there can be no relief for the claimant through the Departments of War or the Treasury on account of the records there made by this fraud.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 116.

WASHINGTON GALLAND.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2166.]

The Committee on War Claims, to whom was referred the bill (H. R. 2166) for the relief of Washington Galland submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House report No. 2609, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 10847) for the relief of Washington Galland, report as follows:

That this is a claim for moneys expended by Washington Galland while raising troops for the service of the United States in the months of May and June, 1861. Claim stated at $1,546.21.

It appears by duly authenticated vouchers that in the year 1861 Capt. Washington Galland, of Lee County, Iowa, by virtue of a commission from the governor of Iowa, and under other and proper authority, and for the good of the service, expended and disbursed from his own private funds the sum of $1,546.21 in recruiting, enlisting, organizing, and subsisting men for the volunteer service of the armies of the United States, and the men so recruited and subsisted were enrolled and served in the Army of the United States.

Capt. Galland has never received any reimbursement or payment for such expenditures either from the State of Iowa or from the General Government.

Your committee is of opinion that the claimant should be reimbursed, and report back the bill and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 117.

CLAIMS OF CERTAIN PERSONS IN NEVADA.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 53.]

The Committee on War Claims, to whom was referred the bill (S. 53) to reimburse certain persons who expended moneys and furnished services and supplies in repelling invasions, etc., submit the following report:

The facts of this claim are fully set forth in a report made by the Committee on Claims of the Senate of the present Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[Senate Report No. 21, Fifty-second Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 53) to reimburse certain persons who expended moneys and furnished services and supplies in repelling invasions and suppressing Indian hostilities within the territorial limits of the present State of Nevada, having had the same under consideration, submit the following report:

A bill similar to this, providing for the payment of these claims, was favorably reported to the Senate, and passed that body in the Fiftieth and Fifty-first Congresses, and was reported favorably to the House in the Fiftieth and Fifty-first Congresses, but failed to receive consideration. Your committee concur in the report made to the Senate at the last Congress, and adopt it as a part hereof, and recommend the passage of the bill.

The report submitted at the last Congress by Mr. Mitchell is as follows:

[Senate Report No. 1285, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred bill S. 163, being a bill "to reimburse certain persons who expended moneys and furnished services and supplies in repelling invasions and suppressing Indian hostilities within the territorial limits of the present State of Nevada," having had the same under consideration, beg to submit the following report:

A similar bill was before this committee during the first session of the Fiftieth Congress, at which time a favorable report was submitted to the Senate, and the bill passed the Senate. This report is No. 952, first session, Fiftieth Congress, and correctly states the history of these claims. Your committee adopt said report as its present report, both as to statement of fact and conclusions, and report back bill S. 163 without amendment and recommend its passage. The report above referred to is appended hereto.

Senate Report No 952, Fiftieth Congress, first session.

APRIL 16, 1888.—Ordered to be printed.

Mr. STEWART, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 2542.]

The Committee on Claims, to whom was referred the bill (S. 2542) to reimburse certain persons who expended moneys and furnished services and supplies in repelling invasions and suppressing Indian hostilities within the Territorial limits of the present State of Nevada, submit the following report:

The claims to be paid under the provisions of this bill are fifty-three in number, and aggregate in amount to $29,144. The persons named in the bill furnished money, supplies, and services in the Indian war in 1860 in what was then western Utah, now Nevada.

The Comstock lode was discovered in 1859. During the winter of 1859–'60 a large number of miners crossed the Sierra Nevada Mountains from California, attracted by the new mineral discoveries. The country previous to that time was very sparsely settled by farmers and stock-raisers. The Pah-Ute (or Piute) Indians, who occupied this region, were numerous and warlike. In the latter part of April, 1860, these Indians commenced hostilities against the whites by an attack on a neighborhood of settlers and stockmen residing on the Carson River, about 30 miles east of Virginia City, Nev. They killed several persons and drove off a large amount of stock.

Previous to the outbreak threats had been made by the Indians to massacre all the whites on the east side of the Sierra Nevada Mountains. At the time of the outbreak the snow on the mountains was very deep, averaging from 10 to 20 feet, and at that season of the year was soft and impassable for teams. To protect the inhabitants and repel these Indians a company was organized in Carson City, consisting of 125 men, under the command of Maj. William Ormsby. They were joined by a small company from the neighboring town of Genoa, and another from Virginia City. They proceeded to the place of the massacre, known as Williams' Ranch, and from there pursued the Indians to Truckee River, near Pyramid Lake, where a battle ensued, in which about sixty of the whites were killed, among whom were Major Ormsby, Henry Meredith, the law-partner of the writer of this report, and other prominent citizens. Others were wounded, and those that escaped with their lives returned to the settlements destitute of horses, and in a pitiable condition.

Immediately after this event home guards were formed and a regular force of volunteers were enrolled and placed under the command of Col. John C. Hays. These volunteers were composed of soldiers, who enlisted

in Nevada and several volunteer companies who crossed the mountains from California. A small company of United States soldiers, under command of Captain Stewart, of the regular Army, also crossed the mountains and co-operated with the forces under Colonel Hays. The combined force consisted of several hundred men, who were supplied with horses, provisions, etc., by the inhabitants of Nevada, assisted by contributions from California. This force moved against the Indians, but the Indians refused to give regular battle against so formidable an army; but after considerable irregular fighting and skirmishing for several days, in which a number of white men and a few Indians were killed, the Indians sued for peace, which was granted and has ever since been observed. The whites have had no trouble with these particular Indians since that time, but they have lived in peace together.

During the second expedition above mentioned Captain Storey, a gentleman of great courage and popularity, was killed, and the county of Storey, in which Virginia City is situated, was given his name to commemorate his services, and the county of Ormsby, in which Carson City, the capital of the State, is located, was named after Major Ormsby.

A large amount of money and supplies were necessary for these expeditions. All the horses and mules in the country were freely surrendered for the use of the soldiers, and every citizen contributed money, food, or clothing to the extent of their means, or whatever else would be serviceable to the forces in the field. Contributions were also liberally made from California.

On December 19, 1862, the legislative assembly of Nevada Territory passed the following memorial to Congress in relation to depredations committed by Indians in the Territory, and expenses incurred in the protection of settlements:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the governor and legislative assembly of the Territory of Nevada, respectfully represent that during the winter and spring of 1860 the Indians inhabiting what was at that time the western portion of Utah Territory, now organized as Nevada Territory, became hostile towards the white settlers, and that in consequence of the massacres being committed it became necessary, in order to save the settlements from annihilation, to employ not only the few United States troops within reach, but to call for aid from the neighboring State of California, and to accept the services of considerable numbers of volunteers from that State, who generously came to the rescue; that this occurred at a time when the transportation of forage and provisions over the snows of the Sierra Nevadas was almost impossible. Supplies for the necessities of volunteers and others became exceedingly scarce, and rose to extraordinary prices. Persons who had transported provisions at a great toil and expense ministered most generously to the wants of the troops; and others, under that "necessity which knows no law," submitted to forced contributions. Many horses and other animals were taken for the use of the expedition, for which no recompense has ever been made. Much of these supplies were accredited at the time, or soon after, by certificates from the officers of the expedition, or other evidences of indebtedness, the most regular and authentic that could be made under the circumstances existing at the time, but we believe as yet no provision has been made for the payment thereof, and the losses thus incurred fall with crushing weight on many worthy individuals, who were deprived of almost their entire substance. We would further represent that numerous depredations were committed by the savages on the stock and other property of the settlers, in some instances almost entire herds being driven off. We know of no legal means of liquidating this indebtedness by our Territorial government, or indemnifying parties for losses thus sustained, and we would most earnestly petition your honorable body to appoint commissioners to examine claims and adjust the same.

On March 10, 1868, the writer of this report presented a report of a commission appointed by the State of Nevada to examine certain claims for Indian depredations, which was referred to the Committee on Claims

of the Senate, but no action was taken thereon, and papers accompanying the report were lost or mislaid—at all events they can not now be found. On May 29, 1868, the writer of this introduced a joint resolution (S. 138) to appoint a board of examiners for claims against the United States in the State of Nevada, which was also referred to the Committee on Claims, and on June 18 of the same year an order was made, at the request of one of the members of the committee, discharging it from further consideration of the resolution.

On December 13, 1883, first session Forty-eighth Congress, the following bill was introduced for the payment of the claims now under consideration, and referred to the Committee on Military Affairs:

[S. 657, Forty-eighth Congress, first session.]

A bill to authorize the Secretary of the Treasury to adjust and settle the expenses of Indian wars in Nevada.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to adjust and settle, on just and equitable principles, all claims for services rendered or supplies furnished in any of the Indian wars in the Territory or in the State of Nevada by the people thereof, not heretofore provided for by law, including subsistence, forage, medical stores, clothing, transportation, and services of and losses of horses used therein, as well as for any other necessary and proper supplies furnished and expenditures made for the prosecution of said wars; and that on such adjustment the same shall be paid out of any money in the Treasury not otherwise appropriated.

It appears that the foregoing bill was referred by the committee to the Secretary of War, upon which he made a report stating that all the claims provided for in the bill could be adjusted and paid under existing laws, whereupon the Committee on Military Affairs made the following report:

[Senate Report No. 406, Forty-eighth Congress, first session.]

The Committee on Military Affairs, to which was referred the bill (S. 657) to authorize the Secretary of the Treasury to adjust and settle the expenses of Indian wars in Nevada, respectfully submits the following report:

Attention is directed to the letter of the Secretary of War, dated January 26, 1884, as follows:

WAR DEPARTMENT,
Washington City, January 26, 1884.

SIR: In response to so much of your communication of the 22d ultimo as requests information concerning Senate bill 657, "to authorize the Secretary of the Treasury to adjust and settle the expenses of Indian wars in Nevada," I have the honor to invite your attention to the following report of the Third Auditor of the Treasury, to whom your request was duly referred:

"The State of Nevada has filed in the office abstracts and vouchers for expenses incurred on account of raising volunteers for the United States to aid in suppressing the late rebellion amounting to $349,697.49, and for expenses on account of her militia in the 'White Pine Indian war' of 1875, $17,650.98. Also, expenses of her militia in the 'Elks Indian war' of 1878, amounting to $4,654.64, presented under act of Congress approved June 27, 1882 (22 Statutes 111, 112).

"These abstracts and vouchers will be sent to your Department for examination and report as soon as they can be stamped, as that statute requires a report from the Secretary of War as to the necessity and reasonableness of the expenses incurred. This statute is deemed sufficiently broad enough to embrace all proper claims of said State and Territory of Nevada.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. S. B. MAXEY,
Of Committee on Military Affairs, United States Senate.

The copy of Senate bill No. 657 is herewith returned, as requested by you.

It will be observed that it is doubtful by the [illegible] 27, 1882, is sufficiently broad to embrace all [illegible] State or Territory.

For convenience of reference the above [illegible] ination thereof and of the construction [illegible] tional legislation is necessary.

Wherefore, for this reason, the [illegible] recommend that it be indefinitely postponed.

The committee evidently [illegible] garded the existing law [illegible] tion, and that it was a [illegible] by Senator James [illegible] tained provisions [illegible] furnished, [illegible] that war of 1861. [illegible] the legislature of [illegible] war claims of [illegible] certainly [illegible] at its next session [illegible]

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Under this act many of the claims for the Piute Indian war of 1860 were presented and laboriously and carefully examined by the board of examiners of the State of Nevada. This board of examiners is a permanent board which passes upon all claims against the State of Nevada before the same can be paid, and was not a special board organized for the purpose of examining these claims. It is composed of the governor, secretary of state, and attorney-general, and has served a most beneficial purpose in protecting the treasury of the State from the payment of unjust demands. A notice was published, as provided in the act above quoted, and all claims presented within the time provided in the notice were examined; and only such claims were allowed as were established by evidence. Many claims were rejected altogether, and most of the claims presented were reduced in amount. All the allowances made and provided for in the bill under consideration are established by the evidence reported by the board and referred to your committee. The investigation made by the board was much more careful and accurate than a committee of Congress could make on the *ex-parte* evidence usually presented for the adjustment of claims of this character. The committee, however, have not relied on the findings of the board, but have examined the evidence in each case upon which the findings were made, and have arrived at the same conclusions which the board of examiners reached in its investigation, with the exceptions hereinafter stated.

The following is a synopsis of the result of the examination made by the board, taken from the biennial report of the secretary of state of Nevada for 1885–'86:

INDIAN WAR CLAIMS.

At the last session of the legislature an act was passed directing the board of examiners to inquire into and pass upon all claims for services rendered, moneys expended, indebtedness incurred, and necessaries furnished between January 1, 1860, and February 27, 1885, in repelling invasions and suppressing Indian outbreaks and hostilities within the territorial limits of the present State of Nevada. By virtue of this act the board of examiners devoted much time and care to the taking of testimony and to the faithful performance of the arduous duties imposed upon them by the legislature in this connection. It required several months of industrious application on the part of the board, involving a mass of correspondence that reached to nearly every portion of the United States. The amounts allowed the several claimants are given below:

Claimant.	Principal.	Interest.	Total.
Mrs. Kate Miot	$150.00	$225.00	$375.00
Mrs. Ellen E. Adams	740.00	1,110.00	1,850.00
William H. Naleigh	385.00	577.50	962.50
John T. Little	219.00	328.50	547.50
A. G. Turner	979.00	1,468.50	2,447.50
Oscar C. Steele	326.00	489.00	815.00
Estate of Samuel Turner	307.00	460.50	767.50
J. H. Mathewson	350.00	525.00	875.00
Charles Shad	327.00	490.50	817.50
Theodore Winters	1,549.00	2,323.50	3,872.50
J. F. Holiday	95.00	142.50	237.50
Franklin Bricker	152.00	228.00	380.00
George Seitz	120.00	180.00	300.00
B. F. Small	110.00	165.00	275.00
Purd Henry	157.00	258.00	430.00
Andrew Lawson	266.00	399.00	665.00
Louis B. Epstein	269.00	403.50	672.50
John Q. A. Moore	580.00	225.00	805.00
Lucy Ann Hetrick	405.00	607.50	1,012.50
Charles C. Brooks	152.00	228.00	380.00
Lizzie J. Donnell, heir of Major Ormsby	1,825.00	2,737.50	4,562.50
J. M. Gatewood	894.00	1,341.00	2,235.00
J. M. Gatewood, supplemental claim	150.00	225.00	375.00
Seymour Pixley	305.00	457.50	762.50

Claimant.	Principal.	Interest.	Total.
J. D. Roberts	3,231.00	4,846.50	8,077.50
H. P. Phillips	269.00	403.50	672.50
J. M. Horton	95.00	132.50	227.50
George Hickox Cady	168.00	252.00	420.00
James H. Sturtevant	513.00	769.50	1,282.50
Gould and Curry Mining Company	1,000.00	1,500.00	2,500.00
John H. Tilton	519.00	778.50	1,297.50
R. G. Watkins	290.00	435.00	725.00
Estate of J. L. Blackburn	763.00	1,144.50	1,907.50
John O. Earl	750.00	1,125.00	1,875.00
L. M. Pearlman	3,130.00	5,445.00	8,575.00
Robert Lyon	1,694.00	2,541.00	4,235.00
Thomas Marsh	150.00	225.00	375.00
Abraham Jones	310.00	465.00	775.00
A. McDonald	750.00	1,125.00	1,875.00
G. H. Berry	130.00	195.00	325.00
Robert M. Baker	171.00	256.50	427.50
P. S. Corbett	95.00	132.50	227.50
John S. Child	505.00	757.50	1,262.50
Benjamin F. Green	225.00	337.50	562.50
Alex. Crow	95.00	132.50	227.50
Mary Curry, widow of Abe Curry	500.00	750.00	1,250.00
Warren Wasson	499.00	748.50	1,247.50
Michael Tierney	145.00	217.50	362.50
Samuel T. Curtis	590.00	885.00	1,475.00
J. Harvey Cole	202.00	303.00	505.00
Isaac P. Lobb	334.00	501.00	835.00
E. Penrod	664.00	996.00	1,660.00
J. B. Preusch	95.00	132.50	227.50
Wellington Stewart	400.00	600.00	1,000.00

The action of the board of examiners upon each claim in the foregoing list, together with the evidence upon which it was based, was transmitted to the Secretary of the Treasury, in accordance with the act of the State of Nevada above quoted, accompanied with the following letter:

EXECUTIVE DEPARTMENT, GOVERNOR'S OFFICE,
Carson City, Nev., February 13, 1886.

SIR: In compliance with the provisions of section 5 of an act of the legislature of this State, entitled "An act relative to the proving of Indian war claims," approved February 27, 1885, I have the honor to transmit herewith the claim of ——— ——— for the sum of $———, and respectfully urge the payment thereof at the earliest practicable day.

I have the honor to remain, your obedient servant,

CHAS. E. LAUGHTON,
Lieutenant and Acting Governor.

Hon. DANIEL MANNING,
Secretary of the Treasury, Washington, D. C.

On receipt of the papers in these cases by the Secretary of the Treasury they were duly referred to the Third Auditor of the Treasury for report, who, on March 2, 1886, replied as follows:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
Washington, D. C., March 2, 1886.

SIR: I have the honor to return claims of Ellen E. Adams and fifty-four others, being those which were transmitted to you by the letter of the acting governor of Nevada, dated February 13, 1866.

An act of the legislature of Nevada, approved February 27, 1885, provided that certain claims might be presented to the State board of examiners, consisting of governor, secretary of state, and attorney-general; and that the governor should transmit to the Secretary of the Treasury of the United States, or other proper officer, such of the claims as should be approved in any sum by said board, and urge their payment by the United States.

The claim of Mary M. Stiles (formerly McDowell), will be specially mentioned below.

The claims of the fifty-four others are for compensation for military service in, or supplies, etc., furnished to, militia of the State engaged in suppressing Indian hostilities in 1860. I do not find that provision has been made by any law of the United States for the adjudication of such claims. For two reasons at least they do not come within the provisions of the act of Congress of June 27, 1882 (18 Stat., 111):

First. The act was confined to expenses, etc., in organizing, etc., forces called into active service by the authorities of a State or Territory between April 15, 1861, and June 27, 1882, whereas all these claims are alleged to have occurred in 1860.

Second. The act did not authorize the adjudication of any claims of individuals, but only claims of States or Territories, and only for expenses incurred or *indebtedness assumed* by the *States* or *Territories*. Nevada has *not* assumed to pay any part of the indebtedness alleged in the fifty-four claims, on the contrary the sixth section of the State act above referred to is in these words: "Nothing herein contained shall be construed as to make the State of Nevada liable for the amount of any approved claim, or any amount of money whatever, except as the same may be received from the Treasury of the United States for the payment of such claims allowed by the United States Government, and to the extent of such allowance."

The board did not consider the claim of Mary M. Stiles (formerly McDowell), holding that it was not of the class of claims which the State act of February 27, 1885, authorized it to pass upon; but, by oversight, probably, it has been forwarded to you with the others. Her claim is for boarding and lodging officers and soldiers of the United States at her hotel April 1, 1863, to about May 1, 1864, $3,450. In its present form it is not entitled to any adjudication, there being no attempt to set ont any account, and the amount demanded being the product of mere guess-work. The United States is not liable for hotel bills of its officers; and if she furnished board or lodging to United States soldiers under any proper authority she could readily have collected at the time all which was due her. The presumption is that she would not have deferred a demand for twenty-two years.

I recommend that the papers in her case be transmitted to the Secretary of War, with suggestion that they be placed on file, for use in the event of the presentation of a claim by her.

I recommend that the fifty-four other claims be returned to the governor of Nevada, this Department having no authority to entertain them.

Very respectfully

JNO. S. WILLIAMS,
Auditor.

Hon. DANIEL MANNING,
Secretary of the Treasury.

On the receipt of the foregoing report from Third Auditor, the Secretary of the Treasury returned all the papers to the governor of Nevada, with the following letter:

TREASURY DEPARTMENT,
March 5, 1886.

The honorable GOVERNOR OF NEVADA:

SIR: I have the honor to acknowledge the receipt of your communication of the 13th ultimo, transmitting to this Department, in compliance with an act of the legislature of Nevada, February 27, 1885, fifty-five claims for compensation for military service in, or supplies, etc., furnished to militia of the State engaged in suppressing Indian hostilities in 1860, with the exception of the claim of Mary M. Stiles (formerly McDowall), which is for boarding and lodging officers and soldiers of the United States in 1863 and 1864.

In reply thereto, I have to state that no provision has been made by Congress for the adjudication of these claims. They do not come within the terms of the act of June 27, 1882 (22 Stat., 111), being "An act to authorize the Secretary of the Treasury to examine and report to Congress the amount of all claims of the States of * * * and Nevada * * * for money expended and indebtedness assumed by said State * * * in repelling invasions and suppressing Indian hostilities, and for other purposes," and are returned herewith as a class of claims which can not be entertained without legislation by Congress.

A copy of the Third Auditor's report in the matter is inclosed for your information, and the papers of the case of Mrs. Stiles have been forwarded to the Secretary of War, as recommended by the Auditor.

Respectfully, yours,

D. MANNING,
Secretary.

It will be observed by the foregoing that the Treasury Department differed from the conclusions of the Committee on Military Affairs (which were based on the letter of the War Department), in holding that the claims could not be paid without further legislation by Congress.

More than one-half of the allowances made by the board of examiners of Nevada was for interest. This your committee disallow. There are several items allowed by the board for services during the first expedition under Major Ormsby before the arrival of the United States troops. These items your committee have also rejected, and confined the allowances for services in the expedition in which the volunteer troops under Colonel Hays acted in conjunction with the United States forces under Captain Stewart.

There is no question about the justice of the claims allowed by your committee. It is true many years have elapsed since these claims arose, but the claimants can hardly be charged with negligence, having prepared their claims within a reasonable time and presented them to Congress, with the evidence upon which they are based. The claims are all small, averaging a little over $500 each, and the claimants are generally poor and unable to come to Washington to prosecute their individual claims. The amount involved is probably less than one-tenth of the money, supplies, and services contributed by citizens during the Pi-Ute war.

Congress has already recognized the obligation of the United States to pay these claims. On June 17, 1874, an act was passed directing the Secretary of the Treasury to pay the sum of $19,473.50 to John M. McPike, in full settlement for beef and supplies furnished the troops by Jordan & McPike in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in 1860. (See U. S. Stat., p. 40 of private acts, chap. 296.)

On March 3, 1885, an act was passed directing the payment to John M. Dorsey of $9,021.33, and to William F. Shepard $3,746.66, in full settlement for beef and supplies furnished the troops by Wallace, Dorsey & Shepard, and S. B. Wallace, in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in the year 1860. (See U. S. Stats., vol. 23, p. 674.)

These claims were sufficiently large to enable the claimants to prosecute them in Washington, but they were no more meritorious than the small individual claims provided for in the bill under consideration, which arose out of the same war and under the same circumstances as the claims already paid by Congress. Several reports were made in both Houses upon the claims of Dorsey & Shephard and Jordan & McPike. The first of these reports was made by Mr. Willey from the Senate Committee on Claims during the third session of the Forty-first Congress, from which we make the following extracts:

In the spring of 1860 great alarm was excited among the inhabitants of Virginia City and its vicinity, then in Utah Territory, by the depredations of the Pi-Ute Indians. An irregular force of about one hundred persons, consisting of many of the best citizens, was organized, armed with such weapons as they could procure, and went out from Virginia City to chastise the Indians. The expedition was unfortunate, falling into ambush, where some sixty of said citizens were killed by the Indians and the others dispersed. This greatly increased the alarm, and there was good reason to fear that the settlements around Virginia City, if not the town itself, would be attacked by the Indians in large force. There were no troops or arms of Government nearer than Salt Lake, five or six hundred miles distant. Under these circumstances the governor of California and the United States officer in command of the Department of the Pacific sent forward to Virginia City arms and ammunition, in charge of proper officers. Two or three hundred volunteers also came along with the United States troops. The citizens of Virginia City and vicinity, together with the

United States troops and volunteers from California, organized a regiment and selected Col. Jack Hays, who happened to be there at the time, to take command thereof. Thus organized and thus commanded, this improvised regiment marched against the Indians, and, after a hard-fought battle, whipped them severely and secured peace and safety. * * *

The evidence shows that this expedition against the Indians was necessary for the preservation of the lives and property of the people of Virginia City and vicinity, and that its organization and success perhaps preserved the people there from destruction. The Government had no troops there; the danger was instant; there were no means of preventing destruction excepting those adopted. The people themselves did what the Government should, perhaps, have been prepared to do. Under these circumstances the committee think there is a moral and equitable obligation resting on the Government to pay the necessary expenses of the expedition.

The prices charged for the supplies seem to be high, but the testimony is all to the effect that, under the adverse circumstances of the case, they could not have been furnished for less. * * *

STATEMENT OF WILLIAM M. STEWART.

UNITED-STATES SENATE, *April* 14, 1888.

William M. Stewart states that he was in Virginia City during the war of 1860; that he aided in fitting out both expeditions against the Indians and contributed for that purpose $1,000, for which he never has and never will present a claim; that many citizens of both California and Nevada contributed considerable sums of money who will never make claims for the same; that he knows most of the persons for whose relief this bill is presented, and knew them at the time of the war; that he is unable to state what amount any particular individual contributed, but does know that nearly every person in the Territory of Nevada contributed freely to the full extent of their means, and that from his general knowledge of the subject he believes the claims presented are just and reasonable.

WM. M. STEWART,
Nevada.

Congress has in numerous instances paid claims of the same character of those provided in the bill under consideration, among which the following are cited as precedents:

By act approved March 3, 1797, entitled "An act making appropriations for the military and naval establishments for the year 1797," appropriations were made, to satisfy and discharge claims for militia service on the frontiers of Georgia, the sum of $70,496.35; for militia service on the frontiers of Kentucky, $3,836.76; and for militia service on the frontiers of South Carolina, the sum of $8,400.25.

By an act approved May 13, 1800, the accounting officers of the Treasury were authorized to settle the accounts of the militia who served on an expedition commanded by Maj. Thomas Johnson against the Indians in the year 1794, the same to be paid out of any moneys in the Treasury not otherwise appropriated.

By section 3 of an act of Congress approved March 14, 1804, making appropriations for the support of Government for the year 1804, it was provided "that the sum which shall be found due on a settlement of the accounts of the militia who served on an expedition commanded by Maj. Thomas Johnson against the Indians in the year 1794, be paid out of any moneys in the Treasury not otherwise appropriated, the appropriation made by the act of the 13th of May, 1800, having been carried to the credit of the surplus fund."

By the second section of an act approved March 2, 1829 (Army appropriation bill), an appropriation was made of $856.55 to pay a company of Illinois militia commanded by Captain Morgan, called into service on the northwestern frontier in 1827, to be settled by the Secretary of War agreeably to the third section of the Army appropriation bill, approved March 21, 1828.

By an act approved July 2, 1836, the Secretary of War was directed to ascertain the sums severally due to persons who performed duty in the companies commanded by Captains Crawford, Wallis, and Long, of the militia of Missouri, and in the companies of Captain Siglor, of the militia of Indiana, for the protection of the frontiers of those States against the Indians, and to cause them to be paid for the time they were actually engaged in said service in the year 1832, at the rate and according to the principles established for the payment of similar services rendered the United States.

By the third section of an act approved March 1, 1837, the Secretary of War was directed to cause to be paid to the volunteers and militia of Kentucky, Tennessee, Alabama, and Mississippi, including the companies in Mississippi mustered into the serv-

lee, who were duly called into service, and whose service was accepted by the executives of the States, respectively, during the summer of the year 1836, under requisitions from the Secretary of War, or from generals commanding the troops of the United States, and who were discharged before marching, the amount of one month's pay, with all the allowances to which they would have been entitled if they had been in actual service during the period of one month; and by the fourth section of said act an appropriation was made for paying the Rifle Rangers, Coosada Volunteers, and Independence Blues, under the command of Major Holt; and for the payment of Major Holt and battalion staff, to be paid on presentation of the rolls of said companies and battalion staff to the Paymaster-General, with evidence of the time they were in the service against the Creek Indians in the months of May and June, 1836.

By an act approved February 4, 1843, the Secretary of War was authorized to cause to be paid to the companies of Captains Johnson, Henderson, Knight, Jones, and North, for services rendered in the year 1840, according to the muster-rolls of said companies, and also the companies of Captains Jernigan and Sweat, for services rendered in the year 1841, according to the muster-rolls of said companies, such payment to be governed by the laws and regulations applicable to the payment of volunteers and militia of the United States.

By act approved March 3, 1843, the accounting officers of the Treasury were authorized and required to settle the claims for supplies furnished the Florida militia, the payment of which was provided for by act of August 23, 1842, upon principles of equity and justice, under the directions of the Secretary of War.

By act approved August 7, 1848, the Secretary of the Treasury was directed to pay to the mounted Tennessee volunteers who served in the companies of Captains Gillespie, Peake, Vernon, and Rogers in 1836, to each the sum of 40 cents per day for the use and risk of his arms, and the sum of 15 cents per day for forage from the 1st of November, 1836, until they were finally discharged.

By act approved March 2, 1835, the Secretary of the Treasury was directed out of the appropriation mentioned in the act to "settle and adjust the expenses of the defense of the people of Oregon from the attacks and hostilities of the Cayuse Indians, in the years of 1847 and 1848, approved February 14, 1851," the sums found due and allowed by Commissioners Wait and Rice and by the governor of Oregon.

By act approved March 3, 1853, supplying deficiencies in the appropriations for the year ending June 30, 1853, the sum of $10,569.06 was appropriated for Mexican hostilities.

By the same act the sum of $18,060.49 was appropriated for pay of Louisiana and Texas volunteers.

By an act approved March 3, 1855, making appropriations for the civil and diplomatic expenses of Government for the year ending June 30, 1856, it was provided that the sum of $25,000 be appropriated to pay the necessary expenses of six companies of volunteers called into the service of the United States by Brigadier-General Smith, in the State of Texas, to be paid under the direction of the Secretary of War.

By an act making appropriations for the support of the Army for the year ending the 30th of June, 1856, and for other purposes, approved March 3, 1855, an appropriation of $137,755.38 was made for pay, supplies, and traveling expenses of six companies of Texas volunteers called into the service by the governor of Texas and mustered into the service of the United States.

By act of March 2, 1861, $400,000 was appropriated for pay of volunteers in Oregon and Washington in suppression of Indian hostilities in 1855–'56.

AN ACT making appropriations for the payment of the awards made by the commissioners appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians." Approved February 16, 1863.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of nine hundred and twenty-eight thousand four hundred and eleven dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of the several amounts awarded by the commission appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863, to the several persons, firms, estates, and corporations, respectively, to whom such amounts were awarded by said commissioners. * * * (13 Stats. at Large, p. 92.)

By act approved March 3, 1875, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1876, the sum of $25,000 was reappropriated for the payment of volunteers of Washington and Oregon Territories, who were engaged in the suppression of Indian hostilities therein in the years 1855 and 1856, and for the payment of claims for services, supplies, and transportation incurred in the maintenance of said volunteers, and for horses and other property lost or destroyed in said service, as provided for by the act of Congress approved March 2, 1861.

AN ACT for the relief of citizens of Montana who served with the United States troops in [illegible] with the Nez Perces and for the relief of the heirs of such as were killed in such service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each volunteer who joined the forces of the United States, in the Territory of Montana, during the war with the Nez Perce Indians, shall be paid one dollar per day during the term of such service, from the time that he left his home until he was returned thereto, including all time spent in hospital under treatment by such as received wounds or other injuries in such service.

SEC. 2. That all persons who were wounded or disabled in such service, and the heirs of all who were killed in such service, shall be entitled to all the benefits of the pension laws, in such manner and to the same extent as if they had been duly mustered into the regular or volunteer forces of the United States.

SEC. 3. That all horses and arms lost in such service shall be paid for at their actual value, to be duly ascertained by the commanding officer of the district of Montana: *Provided*, That no payment shall be made for such losses except upon the statement of the commanding officer of the United States troops or such other officer of the regular Army as might be in control of the volunteers at the time of such loss, and such other proofs as may be required by the commanding officer and the United States quartermaster for the district of Montana, to establish the fact that such losses were made in the service of the United States.

Approved, March 3, 1881. (U. S. Stat. at Large, vol. 21, p. 641.)

And by the second section of an act approved January 6, 1883, the Secretary of the Treasury was directed to pay to the State of California and to the citizens thereof, their heirs, representatives, or assigns, the sum of $4,441.33 for arms, ammunition, supplies, transportation, and services of volunteer forces in suppressing Indian hostilities in said State during the said years of 1872–'73, as the same were specifically reported to Congress by the Secretary of War December 15, 1874.

The committee report back a substitute for the bill (S. 2542), and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATVIES. { REPORT No. 118.

THOMAS J. SMITH.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SMITH, of Illinois, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2150.]

Your Committee on Claims, to whom was referred the bill (H. R. 2150) for the relief of Thomas J. Smith, having had the same under consideration, report as follows:

From the evidence presented to your committee, it appears that said Thomas J. Smith served as special pension examiner, beginning October 26, 1886, and his service ending November 17, 1887; that by notice from the then Commissioner of Pensions, Gen. John C. Black, he was from said date relieved as such examiner and directed to turn over to his successor, W. N. Pickerill, his (the said Thomas J. Smith's) supplies as such special examiner; that at the time of receiving such notice he, the said Thomas J. Smith, was at Canton, in the State of Ohio, in the full and proper discharge of his duties as such special pension examiner; that there does not appear before this committee any evidence to show that there were any reasonable grounds for the dismissal of said Smith from the service aforesaid.

It does satisfactorily appear that said Smith had his home at, and during his said service resided in, Mound City, in Pulaski County, Ill., and that the regular railroad fare from said point where he was stationed at the date of his said discharge from such service, to wit, Canton, Ohio, to his home at Mound City, Ill., was $17.20; that his expenses for sleeping car between said points was and did cost him $3, making a total of actual expenses to him, from the said point where discharged, viz, Canton, Ohio, and his real home, Mound City, Ill., the sum of $20.20. It further appears to your committee that the said Smith paid this amount of expenses in traveling from said point where relieved and his said home. It further appears from the evidence presented that it was no fault of said Smith that the amount of his said expenses was not paid him by the Pension Department, but, on the contrary, that it resulted from his inability to turn over his supplies to his successor before the time expired under the law, by reason of his successor not being present at Canton, Ohio, to receive same.

Your committee are further advised by the Pension Department that the record of said Smith as such special examiner is and was good, and that no legal grounds existed for dismissal.

Your committee are fully satisfied from the evidence presented, and after a careful examination of same, that under the laws said Thomas J. Smith was entitled to his actual expenses from the point where then stationed and discharged to his actual residence and home in Illinois,

and that it was not through any fault or negligence of his that he did not receive the same.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., November 3, 1887.

SIR: Telegram sent you this day, to wit; "Leave of absence granted to include November 17, after which time your services will be dispensed with. Turn over all cases and Government property to Special Examiner W. N. Pickerill.

"All expenses to reach home must be incurred before 17th."

Very respectfully,

JOHN C. BLACK,
Commissioner.

Mr. T. J. SMITH,
Special Examiner, Canton, Ohio.

STATE OF ILLINOIS, *Pulaski County, ss:*

On this 3d day of July, 1890, personally appeared before me, Thomas J. Smith, ex special examiner of the United States Pension Bureau, personally known to me to be the person he represents himself to be, who, being duly sworn according to law, states as follows, to wit:

My name is Thomas J. Smith; my occupation, professionally, is that of teacher, at present; my age is 44 years last birthday; my post-office address is Mound City, Pulaski County, Ill.; I am the identical Thomas J. Smith who served in the United States Pension Bureau as a special examiner, beginning October 26, 1886, to November 17, 1887, inclusive; that I could not turn over my Government property to Special Examiner W. N. Pickerill until November 16 (after 8 p. m.), 1887, he being absent from headquarters at Canton, Ohio, or did not see fit to respond to my letter notifying him of my order sooner; that upon dropping me without cause Commissioner J. C. Black went to California to be absent six week, and immediately upon my dismissal at Canton, Ohio, diphtheria broke out among my children, followed by scarlet rash and whooping cough, and their condition was such that I could set no time to remove home (here), and now I claim my expenses to reach home, for myself personally, as follows:

Railroad fare from Canton, Ohio, to Mound City, Ill., via Cleveland and Canton Railroad, Pittsburgh, Cincinnati and St. Louis Railroad (Panhandle), and Cairo, Vincennes and Chicago Railroad	$17.20
Sleeping car for one night	3.00
Total	20.20

That my expense account prior to November 16, 1887, was rendered while at the office at Washington, D. C., for the purpose of seeing Commissioner Black and allowed before his return from California. I furthermore send with this application the office letter from Commissioner John C. Black, dated November 3, 1887.

THOMAS J. SMITH,
Ex Special Examiner United States Pension Bureau.

Subscribed and sworn to before me this 3d day of July, A. D. 1890, and I certify that Thomas J. Smith is personally known to me to be the person who signed and made the foregoing declaration, and that he is respectable and entitled to credit.

[SEAL.] B. P. ULEN,
Clerk Circuit Court.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., July 17, 1890.

SIR: Referring to your account for expenses incurred to reach your home after your services had been dispensed with, which is herewith returned, you are advised that the appropriation for the fiscal year 1887 has been covered into the Treasury. Your remedy, therefore, must be by special act of Congress.

Very respectfully,

GREEN B. RAUM,
Commissioner.

Mr. THOMAS J. SMITH,
Late Special Examiner, Mound City, Ill.

Your committee therefore report said bill back to the House, with the recommendation that the same do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 119.

JULIUS C. AZNONE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SMITH, of Illinois, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2100.]

Your committee, to whom was referred the bill (H. R. 2100) for the relief of Julius C. Zanone, only heir of John B. Zanone, late of Mound City, in Pulaski County, Ill., having given the same careful consideration, report as follows, viz:

That from the evidence presented to your committee and on file in this case it is shown and proven that John B. Zanone, deceased, was before, during, and for years after the war of the rebellion a resident of Mound City, in Pulaski County, Ill.; that he was loyal to the Government of the United States during all of said war; that he owned at one time a large two-story frame house, situate in said Mound City, Ill., which said house was taken possession of by the forces of the United States Government and by said Government held, used, and occupied for a marine barracks from April 20, 1864, to April 30, 1869; that during said time said house and premises were reasonably worth the sum of $75 per month for the rental thereof; that said John B. Zanone was not during his life, nor has his legal heir since his death, been paid any sum or amount whatever for the use of such property; that the records of the Navy Department show that the Government, after using said building as aforesaid, did offer to said John B. Zanone the sum $75 per month as rental for said building during the time it was so held, used, and occupied by the Government authorities.

NAVY DEPARTMENT, *Washington, March 28, 1890.*

SIR: I have the honor to return herewith the letter of Mr. Peter Saup, and its inclosure, referred to this Department by you for information as to the status of the claim therein mentioned.

The letter of Mr. Saup relates to a claim of the estate of John B. Zanone, deceased, for rent of certain buildings at Mound City, Ill., which were occupied as a marine barracks from the 20th of April, 1864, to the 30th of April, 1869.

It appears from the records of the Department that the sum of $75 per month as rent for said buildings was tendered to Mr. Zanone and was refused by him, but the records do not show what sum or sums of money were paid to him on account of the occupation of the buildings.

There being no appropriation available from which the amount, if any, to which the claimant may be entitled could be paid, the claim is one requiring consideration and action by Congress.

Very respectfully,

F. M. RAMSAY,
Acting Secretary of the Navy.

Hon. GEORGE W. SMITH,
House of Representatives.

That said Zanone would not accept same, claiming that he was entitled to more, but did not relinquish his claim; that said John B. Zanone had a wife, from whom he was divorced on the 14th day of October, A. D. 1884; that said John B. Zanone died in said Pulaski County, Ill., on or about October 27, A. D. 1887, leaving as his only legal heir Julius C. Zanone, who is still living and has attained his majority.

Your committee, being fully satisfied from the evidence that the property aforesaid was the property of said John B. Zanone during the time it was so occupied by the United States Government, as stated in said bill, and that the reasonable rental value thereof was the sum of $75 per month, and that no part thereof has been paid, and that in justice and equity same ought now to be paid to the said legal heir of said John B. Zanone, respectfully recommend that said bill as presented do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 120.

LOUISA HARRINGTON.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SMITH, of Illinois, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2099.]

The Committee on Claims, to whom was referred the bill (H. R. 2099) for the relief of Mrs. Louisa Harrington, widow of Thomas Harrington, deceased, having had the same under consideration, and after an examination of all the evidence submitted, find:

That Thomas Harrington died on or about the 4th day of April, A D. 1889, and that he left surviving him Mrs. Louisa Harrington, his widow, who is still living, and that she is the identical person mentioned and named in said bill No. 2099.

That the said bill seeks payment as pay and compensation for wood furnished by said Thomas Harrington in his life-time to the United States Government, and for damages occasioned by said Government to boats belonging to said Thomas Harrington.

That it appears from report of R. N. Batchelder, quartermaster U. S. Army, that this whole question was carefully examined by a commission duly appointed for that purpose by the Government, and after all evidence had been taken and considered by said commission, the only amount found due was the sum of $91.25, and said quartermaster recommended that the same be paid.

EXHIBIT A.

STATE OF ILLINOIS, *County of Pulaski:*

On this 21st day of November, A. D. 1889, personally came before me, E. W. McClelland, the county court clerk for the county of Pulaski, in the State of Illinois, Mrs. Louisa Harrington, aged 70 years, a citizen of the Post-Office Mound City, Pulaski County, Illinois, Box 320, and who being by me duly sworn, deposeth and says Thomas Harrington is dead; he died 4th of April, '89. I, Louisa Harrington, am the widow of Thomas Harrington, dec., late of Metropolis, in the county of Massac, State of Illinois, and that my said husband, Thomas Harrington, dec., was the identical Thomas Harrington, named in the bill No. 9499 (H. R.) of the Fiftieth Congress, 1st session, of the United States of America, introduced by Mr. Townsend, of Illinois, now *deceased*, and said bill was for the relief of my said husband, Thomas Harrington, to be paid to him the sum of ($2,321.50) two thousand three hundred twenty-one dollars and fifty cents out of any money, in the Treasury of the United States, by the Secretary thereof, not otherwise appropriated, the same being for wood furnished the United States Government, and damages to boats (in the late war of 1861–5 inclusive), and said bill was introduced by Mr. Townsend, of Illinois, in the House of Representatives on the 16th day of April, 1888, and was referred to the Committee on War Claims and ordered to be printed, &c., as said bill was never reported back to the House by said Committee. Now in as much as I am the lawful widow of the said Thomas Harrington, dec., and I am now very old and am *in an impoverish* condition, and am now living on the char-

ity of others in my old age, I, the said Louisa Harrington, pray that a bill will be introduced in my behalf that said amt., for said claim, to be paid to me, Louisa Harrington, as the widow of the said Thomas Harrington, dec., and pray that said committee will act favorably on said bill, and give to me what I am justly entitled to, for the property of my said husband Thomas Harrington, dec., thus to enable me to live on in my old days, which is just and honest, as my deceased husband and myself have now been deprived of the same now near one quarter of a century, praying my above request will be heard by the 51st session of the Congress of United States of America.

Witness, LOUISA (her x mark) HARRINGTON.
ROMEO FRIGANZA.
MARY A. FRIGANZA.

Also personally came Romeo Friganza, aged 74 years, and Mary H. Friganza, aged 48 years, both citizens of the post-office Mound City, county of Pulaski in the State of Illinois, both well known to me to be creditable and respectable persons, and they both being by me duly sworn, each for themselves, declare that they have for the past years been personally acquainted with Louisa Harrington, the above applicant and signer to the above declaration and affidavit, and they know that she is the identical person she represents herself to be, and that is she is the widow and lawful widow of Thomas Harrington, dec., late of Metropolis in the county of Massac, in the State of Illinois, and that her said husband, Thomas Harrington, dec., is the identical Thomas Harring named in the House of Representatives bill No. 9499 of the 50th Congress, 1st session, of the United States of America, of April 16, 1888, introduced by Mr. Townsend, of Illinois, and that the said Louisa Harrington's late husband, Thomas Harrington, is dead; that he died in Metropolis, in the county of Massac in the State of Illinois, on or about the 4th day of April, A. D. 1889. We further sayeth not. Only one of saw the said Thomas Harrington after he was dead, and know that the said Louisa Harrington, his widow, remains his widow up to this date, and that she has not again married since the death of the said Thomas Harrington, dec., and that her post-office is Mound City, Pulaski County, in the State of Illinois, box 320. this the 21st day of November, A. D. 1889.

ROMEO FRIGANZA.
MARY A. FRIGANZA.

Subscribed and sworn to before me, E. W. McClelland, county court clerk in and for the county of Pulaski in the State of Illinois, by the applicant, Mrs. Louisa Harrington, and the witnesses, Romeo Friganza and Mary A. Friganza, and I certify I carefully read and explained the above affidavit and declaration to both applicant and witnesses before they signed and swore to the same, and they are personally known to me to be credible and respectable persons, and I further certify that I am in no wise related to any of the persons above named and I have no interest in any claim this declaration and affidavit is sought for or to establish.

Given under my hand and seal of my said office, at office in Mound City, Pulaski County, Illinois, this the 21st day of November, A. D. 1889.

[SEAL.] E. WM. MCCLELLAND,
County Clerk.

EXHIBIT B.

Case of Thomas Harrington, of Massac County, Illinois, under the act of July 4, 1864.

WASHINGTON, D. C., *September* 4, 1874.

In this case payment is asked—

For 1,000 cords of wood at $2	$2,000.00
2 wood or flat boats	300.00
1 skiff	10.00
13¼ cords of wood, furnished to the steamer *J. D. Perry*, at $2	26.50
6 cords of wood furnished to the steamer *Lancaster*, at $3	18.00
4 cords of wood furnished to the steamer *Argonaut*, at $3.50	14.00
4 cords of wood furnished to the steamer *Prairie Rose*, at $3.50	14.00
4 cords of wood furnished to the steamer *Ione*, at $3.50	14.00
1 voucher received from Captain White for wood furnished	16.25
Total	2.412.75

Claimant's application sets forth that the property charged for was taken from him during the time from October, 1861, to March, 1863, for the use of the U. S. Army, and that it was so used; that no receipts or vouchers were given although he made ap-

plication for them; that no payment has been made or compensation received in any way or from any source whatever for the whole or any part of the claim.

This is supported by the joint affidavit of two witnesses who swear that they were intimately acquainted with claimant and know that he had a contract to furnish wood to United States troops at Cairo, Ill., and that to the best of their knowledge and belief the stores charged for were taken, as stated, for the use of the U. S. Army.

The depot quartermaster at Fort Leavenworth, Kans., to whom the claim was referred for investigation as to its justness, etc., reports substantially as follows:

"From claimant's statement I learned that he was engaged in furnishing wood to the quartermaster departments at Cairo, Ill., in 1861 and 1862, and that his means and facilities therefor were limited.

"His flat boats and skiffs were broken while in use by him; one by a transport attempting to load against it at the levee in Cairo; and the other while being towed up the river by a Government tug.

"Now, Harrington claims that prior to these mishaps he delivered an unknown quantity of wood (supposed to have been about 300 cords), for which he asserts no payment was ever made him; and he further claims that if his boats had not been destroyed he could have delivered 700 additional cords of wood, and he therefore considers that he was damaged to the extent of 1,000 cords of wood, in addition to the value of his boats.

"Claimant states that he entered into a contract with the Quartermaster's Department for the delivery of wood, but he neither possessed a copy nor could he furnish any evidence of the existence of such an agreement.

"Harrington never kept any accounts or books of his alleged transactions with the Government. He was in fact entirely unable to produce any evidence or give the name of any one knowing about the delivery of wood from whom any definite information concerning the justness of this claim could be gained.

"He states that the vouchers and receipts he received for wood delivered to steamboats were given to a claim agent for collection, who, however, failed to make returns, alleging that the vouchers were lost."

The substance of the foregoing report was communicated to claimant (through his attorney) who replied at length giving a full history of the circumstances under which the account originated, and complaining that the report had not done him justice, and that certain evidence furnished to the agent appeared to have been wholly ignored, as the evidence referred to did not accompany the depot quartermaster's report, the agent who made the investigation.

(J. V. Wurdeman, who was temporarily in Washington) was verbally communicated with on the subject, and on the 18th of April last he handed in the evidence furnished him by claimant and also some pencil memoranda made by him during the investigation which were among the retained papers.

The evidence referred to is substantially as follows:

First: The claimant swears that on or about the 1st day of February, 1862, he was the owner of a certain wood or flat boat reasonably worth $150 and a certain skiff worth $10; that said flat boat and skiff were destroyed and rendered wholly worthless by being crushed to pieces by the *Fannie Bullett*, a United States Government steamer, running into them and forcing them against the stone wharf at Cairo, Ill.; affiant further states that about the month of February, 1862, he was the owner of a certain flat-boat which had been taken possession of by the military authorities of the United States, and which was being used for conveying word from Metropolis, Ill., and other intermediate points; to Cairo, Ill., that while this boat was under the charge of the authorities before mentioned, and during the month aforesaid, she was being towed up the Ohio River by the U. S. S. *Chancellor*, and that when said steamer landed at Mound City, Ill., the flat-boat was forced up against the wharf and badly crushed, but not so as to render it entirely worthless; that the steamer continued her trip up the river, and in landing at Caledonia, Ill., the flat-boat was entirely crushed to pieces. That said flat-boat was reasonably worth $150, and that he has not received, either directly or indirectly, any compensation for the loss of said boats or either of them. Affiant further states that from the month of October, 1861, until about the 1st of June, 1862, he had a contract to furnish cord-wood to the U. S. military authorities at Cairo, Ill., and that while acting under said contract he furnished 13¼ cords of wood to the steamer *John D. Perry*; and that after the expiration of the contract he furnished to different steamers in the U. S. service 17 cords of wood, the whole valued at $83, for which he has received no pay whatever.

Second. Benjamin Harrington swears that he is well acquainted with Thomas Harrington, who has made the foregoing affidavit; that he worked for said Harrington during the years 1862 and 1863, and knows from his own personal knowledge that the facts set forth in said affidavit are true and that he has no interest in the collection of the claim.

Third. John T. Rennie swears that in February, 1862, he was in Cairo, Ill., and that he was well acquainted with Thomas Harrington of Metropolis; that at the

time mentioned he (affiant) was acquainted with the fact that said Harrington had a flat-boat at Cairo, on which he had brought wood for the United States troops, and that said flat-boat and a skiff belonging thereto were crushed and destroyed by the steamer *Fannie Bullett* which at the time was in the U. S. service. This affiant further states that the flat-boat was reasonably worth the sum of $150.00 and that the skiff was worth at least $10.

Fourth. John C. White swears that he was a clerk for Capt. James Dunlap, assistant quartermas er at Cairo, Ill., during the fall of 1861 and winter of 1861 and '62, and that he knows that Captain Dunlap had a contract with Thomas Harrington, of Metropolis, Ill., for supplying wood to the Government troops at Cairo, and that Harrington did, from time to time, during the fall and winter aforesaid, deliver wood to Captain Dunlap on said contract, and that affiant made out vouchers for some of the wood so delivered and paid the same. Affiant further states that to the best of his recollection and belief claimant brought to him, some time in the summer of 1863, a receipt made by one of the officers of the steamer *John D. Perry* for a quantity of wood, about 14 cords, received from Harrington for the use of said steamer, also a receipt signed by one of the officers of the U. S. S. *Prairie Rose* for 3 or 4 cords of wood, also a voucher given by some quartermaster, whose name deponent can not now remember, for some 5 cords of wood delivered to the steamer *Lancaster;* that deponent, by request of claimant, sent said receipts and vouchers to the proper quartermaster (thinks Colonel Parsons) at St. Louis, Mo., for settlement; that no settl ment was ever made, nor were the papers returned to deponent.

Affiant further states that at a late date, the precise time he does not recollect, he received from said Harrington other receipts, as follows: One made by the officers of the steamer *Argonaut*, for some four or more cords of wood, and one made by the officer of the steamer *Ione* for three or four cords of wood, which were also sent by deponent to the quartermaster at St. Louis, for settlement, neither of which was ever settled or returned to deponent's knowledge.

Affiant further states that he did obtain during the fall of 1864, from Captain Ferry, assistant quartermaster at Louisville, Ky., a voucher in favor of Harrington for $12.25, for 3½ cords of wood (delivered) to the U. S. steamer *Sallie List*, and that he mailed this voucher to Harrington at Metropolis, and is informed and believes that it was lost and never reached him.

From Agent Wurdeman's pencil notes it appears that Mr. Harrington had a contract with Captain Dunlap to furnish all the wood he could deliver at Cairo at $2 per cord. He could not, however, produce a copy of the contract. That one of the flat-boats and a skiff were crushed at Cairo by a Government steamer landing against them, and that the other flat-boat was broken up while being towed up the river for Harrington by a Government steamer, it being so old that it would not hold together. That a Captain Turner loaned him some flat-boats to deliver wood in, in the place of those destroyed, which were afterwards taken away by Government officials. That Harrington furnished but a portion of the 1,000 cords of wood charged for—not quite 500 cords—but claims that he was damaged to the extent of the quantity charged by reason of the destruction of his boats.

From all the information he could gather, the agent concludes that claimant was furnishing wood to the Quartermaster's Department, and to Government steamers as claimed, but that he had not sufficient capital at any one time to hold over 1,000 cords of wood; that he was a poor, shiftless business man, and that he was apt to blame others for his failures.

It appears from a communication addressed to the Quartermaster-General by claimant that he received pay for all the wood delivered at Cairo, except 93 or 94 cords delivered in a Government pontoon-boat; that the receipts obtained for the wood furnished to Government steamers were placed in the hands of B. M. Munn, of Cairo, for collection, and were supposed to have been filed in the proper department through Horatio King, esq., of Washington. No record of the receipts or of claimant's contract with Captain Dunlap can be found in the Quartermaster-General's Office.

It further appears from Agent Wurdeman's pencil notes that claimant and his attorney wished the original papers in the claim destroyed, that they might prepare a new account, and that the claimant suggested that the charges for 1,000 cords of wood and the boats be abandoned.

Mr. Harrington presented an account to the Cairo commission, of which C. A. Dana was chairman, and alleged in support thereof substantially the same facts as hereinbefore set forth, omitting the charges for wood furnished to steam boats. The claim was stated as follows:

1861, 1862.	To one new wood boat, 65 by 20 feet, destroyed by Fanny Bullett, a Government boat	$100.00
	One skiff destroyed by Fanny Bullett	10.00
	One wood boat, 110 by 18 feet, destroyed by Steamer "*Chancellor*"	100.00
	Damage for same	500.00
	Total	710.00

The commission awarded claimant the sum of $100 on this account, but whether this allowance was intended to cover the whole claim or only a portion of it does not appear.

The claim is indorsed in pencil: "Dismissed for want of jurisdiction."

April 10, 1878, the Third Auditor was requested to furnish statement of any wood purchased, paid for, or taken from claimant during the periods stated by the following-named officers, viz: Lieut. R. C. Rutherford, Tenth Illinois Volunteers, October. 1861; Capt. James Dunlap, acting quartermaster, October, 1861, to April, 1862; Capt. R. B. Hatch, acting quartermaster, October, 1861, to January, 1862; Capt. W. J. Kountz, acting quartermaster, December, 1861, to March, 1862; Capt. G. L. Fort, acting quartermaster, January, 1862, to April, 1862; Capt. P. T. Turnley, acting quartermaster, January, 1862, to June, 1862; Capt. A. S. Baxter, acting quartermaster, December, 1861, to February, 1862; Capt. A. M. Bradshaw, acting quartermaster, February, 1862, to May, 1862; Capt. C. A. Reynolds, acting quartermaster, March, 1862, to April, 1862; Capt. John R. Cannon, acting quartermaster, June, 1862, to September, 1862; Capt. James O. Churchill, acting quartermaster, August, 1862, to March, 1863; Capt. A. C. Woolford, acting quartermaster, September, 1862, to April, 1866; Capt. William Currie, acting quartermaster, February, 1864, to November, 1 64; Capt. Patrick Flannigan, acting quartermaster, November, 1864, to July, 1865.

May 20, 1878, the Third Auditor in reply states that the money accounts and property returns of the officers named for the period stated show "Capt. James Dunlap, acting quartermaster, to have purchased from Thomas Harrington, first quarter, 1862, abstract D, 36 cords and 45 feet of wood for $73; paid for by himself May, 1862, abstract A, voucher 71. Capt. John R. Cannon's property returns, abstract D, September, 1862, show purchase from Thomas Harrington of 36 cords and 64 feet of wood for $91.25; not checked as paid.

"Respectfully submitted to the Quartermaster-General, U. S. Army."

The claim for boats and damage thereto was passed upon by Cairo Commission and claimant awarded $100 on his claim for $710, but the whole seems to have been dismissed for want of jurisdiction. The award of the commission was presented to this office by Mr. H. King, November 16, 1862 (cls. 11, 374), and was returned to him November 21, 1862, with remark that "If claim is for boats destroyed it must be adjusted by Third Auditor, under act of March 3, 1849. If for damages, no appropriation to pay it."

Another claim for damage of two flat boats on Ohio River (no doubt same boats) for $500 was filed for claimant July 1, 1864, by Hall & Eaton, Washington, D. C., and was returned to them at their request December 14, 1864 (cls. 52-'7). I think it clear that the items for boats belong properly to classification damages. His two boats were damaged while in his own possession. He shows no proper title to the last one taken from him. Perhaps it was a Government barge loaned to him. The boats to which he alleges he furnished the wood are not shown by records to have been in Government service at time. They may have been doing Government service as common carriers, furnishing their own fuel, etc.

No record has been discovered in returns and accounts of officers at the Treasury who were stationed in the vicinity at the time alleged of any wood furnished by claimant for which he did not receive vouchers and payment, except the item of 36 cords and 64 feet of wood, shown by returns of Lieutenant Cannon, and not checked as paid.

As no evidence of payment is found, the presumption is that claimant has received no payment therefor.

The amount, $91.25, is the only sum that can be reported as due the claimant on this claim, and payment therefor is recommended.

R. N. BATCHELDER,
Quartermaster, U. S. Army.

SEPTEMBER 28, 1878.
True copy.

J. G. CHANDLER,
Deputy Quartermaster General, U. S. Army.

QUARTERMASTER-GENERAL'S OFFICE, *December* 20, 1881.

Your committee therefore report back said bill with the recommendation that same be amended as follows, viz: Strike out in lines seven and eight the words "two thousand three hundred and twenty-one dollars and fifty cents," and in lieu thereof insert the words "ninety-one dollars and twenty-five cents," and recommend that said bill when so amended do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 121.

WILLIAM W. WEDGWOOD.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1923.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1923) granting an honorable discharge to William W. Wedgwood, have considered the same and submit the following report:

William W. Wedgwood was a lieutenant in the Ninety-fifth Illinois Volunteers, and was mustered out of the service in December, 1862, by order of the commanding general of the Thirteenth Army Corps, without a court-martial and without a hearing of any kind.

The facts are quite fully set forth in the report of the Adjutant-General hereto attached and made a part hereof.

From a consideration of the evidence it appears the dismissal of the officer in question was made through a misapprehension of the facts. The War Department was about to correct the mistake, but found it had not the power to do so.

It appears very plainly to your committee that a mistake was made by which this officer was dishonorably discharged for a supposed infraction of duty, while he was in fact obeying strictly the commands of his superior officer, but there being no trial or hearing before dismissal the mistake worked a great hardship and placed a stigma upon a deserving officer which this bill seeks to correct.

Your committee recommend that the bill do pass.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 6, 1889.

SIR: In reply to a letter from Mr. W. W. Wedgwood, of Alta, Iowa, dated the 15th ultimo, submitted by you to the Department, in which he refers to a letter of the Secretary of War, dated March 30, 1874, which informed him that an order granting him an honorable discharge as first lieutenant, Ninety-fifth Illinois Volunteers, would be issued for him by the Adjutant-General of the Army, and requests that he may be furnished with a copy of such order, I have the honor to inform you that the facts in the case are as follows:

On March 8, 1874, S. A. Hurlbut, M. C., submitted to the Department a petition of late officers of the Ninety-fifth Illinois Volunteers for amendment of the military record of Lieut. Wedgwood, of the same regiment, so as to show him honorably discharged the service. The same having been referred to this office, was returned with the following report:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
March 20, 1874.

Respectfully returned to the War Department with all papers in the case.

William W. Wedgwood was mustered into the military service of the United States as first lieutenant Ninety-fifth Illinois Volunteers.

December 18, 1862, while on duty as officer of the picket guard and under instructions to remain at his post until daylight, Lieut. Wedgwood returned to camp with his men at 5 o'clock a. m. (nearly an hour before daylight), and permitted the guard to discharge their arms at will, leading to much confusion and alarm in the camp.

For this cause he was mustered out by Special Orders, No. 58, from headquarters Thirteenth Army Corps, Department of the Tennessee (Maj.-Gen. Grant commanding), dated December 31, 1862, for "deserting his picket post."

January 17, 1863, his regimental commander and other officers, including the picket officer of the day who gave Lieut. Wedgwood his instructions, appealed to Gen. Grant to rescind the order of muster out on the ground that the lieutenant did not desert his picket, but in his action strictly obeyed the instructions of his superior officer.

No action was had on the appeal.

March 12, 1863, the muster out referred to was approved by the Secretary of War, since which time the case has not been presented to this office until the application for honorable discharge herewith submitted was received.

E. D. TOWNSEND,
Adjutant-General.

The petition was approved by the Secretary of War, and the following letter addressed to Mr. Hurlbut:

WAR DEPARTMENT,
Washington City, March 30, 1874

SIR: Referring to the petition filed by you of Lieut. Col. Wm. Avery, Maj. C. B. Loop, Adjt. W. W. Wood, and other officers of the Ninety-fifth Illinois Volunteers, requesting that the order which mustered out W. W. Wedgwood, late lieutenant Ninety-fifth Illinois Volunteers, be revoked and he granted an honorable discharge, I have the honor to inform you that in view of the facts stated in the letter of the officers of the regiment to Gen. Grant, dated January 1863, I have approved the application, and the necessary order granting Lieut. Wedgwood an honorable discharge will be issued by the Adjutant-General.

Very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

Hon. S. A. HURLBUT,
House of Representatives.

With the view to carry out the instructions of the Secretary of War the following letter from this office was addressed to Mr. Hurlbut:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, April 4, 1874.

SIR: In connection with the letter of the Secretary of War to you, dated the 30th ultimo, and with the view to the revocation of the dismissal of First Lieut. Wm. W. Wedgwood, late of the Ninety-fifth Illinois Volunteers, I have the honor to request that Lieut. Wedgwood be instructed to forward to this office his resignation, to date December 31, 1862, so that he may be honorably discharged in orders on tender of resignation.

Upon the receipt of his tender of resignation at this office the order of honorable discharge will be issued and forwarded to you for Lieut. Wedgwood.

Very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

Hon. S. A. HURLBUT, M. C.,
House of Representatives, Washington, D. C.

On the 7th of March, 1875, Mr. Hurlbut submitted to this office a copy of the letter of the Secretary of War, dated March 30, 1874, which informed him that an honorable discharge would be issued for Lieut. Wedgwood, and requested to be advised whether the resignation of Lieut. Wedgwood should be forwarded under the instructions of that letter. To which this office replied as follows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 9, 1875.

SIR: In reply to your inquiry of the 7th instant, I have the honor to inform you that the resignation of Lieut. W. W. Wedgwood as an officer of the Ninety-fifth

Illinois Volunteers, to date December 31, 1862, should be forwarded to this office for action looking to an amendment of his record.

Very respectfully, your obedient servant,

THOMAS M. VINCENT,
Assistant Adjutant-General.

Hon. S. A. HURLBUT, M. C.,
Belvidere, Ill.

As neither Mr. Hurlbut nor Mr. Wedgwood replied to that letter, no further action was taken in the premises.

It is proper to add that it is impracticable at this date to carry out the instructions contained in the letter of the Secretary of War of March 30, 1874, as it has been decided, and for the last ten years uniformly held by the Department, that there is no authority of law to revoke the dismissal of an officer and grant him an honorable discharge; and, therefore, relief can only be afforded by special legislation.

Very respectfully, your obedient servant,

R. C. DRUM,
Adjutant-General.

Hon. I. S. STRUBLE,
House of Representatives.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 122.

PAYMENTS TO DELAWARE INDIANS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PEEL, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 26.]

The Committee on Indian Affairs, to whom was referred House bill 26, having had the same under consideration, beg leave to submit the following report:

This bill seeks to pay the Delaware Indians $39,600; $10,715 to be paid individual members of said tribe for improvements upon lands belonging to them over which the Leavenworth, Pawnee and Western Railroad Company was granted right of way, and $28,959.41 for the use of lands used for said right of way as provided in the concluding clause of article 3 of treaty of May 30, 1860.

These lands had been allotted to these Indians and the right of way of said railroad passed over their individual allotments, which have not been paid for by said company. It seems from the treaty that the Government is bound to the Indians for this damage and the road to the Government, which more fully appears by the following, taken from a report of the Indian Office on this subject.

The following is taken from House Report 2168, made upon H. R. 10549, first session, Fifty-first Congress, which bill contained other items due the Delawares as well as the item now contained in this bill:

The other provision of the bill upon which a report from this office is desired has relation to the payment of damages to the individual members of the Delaware tribe through whose allotted lands the Leavenworth, Pawnee and Western Railroad secured right of way, as provided in article 12 of the treaty of May 6, 1854 (10 Stats., 1048).

This bill proposes to appropriate $20,000, or so much thereof as may be necessary, to pay the damages due the Indian claimants.

I am informally advised that it was the intention of the framers of the bill to appropriate $30,000 for this purpose, but that by a clerical error the word "twenty" was used instead of "thirty." As the damages on account of the right of way over the allotments were appraised by a board convened by this Department in 1866, at $28,959.41, this allotment is believed to be true.

House bill 5618, Forty-ninth Congress, first session, proposed to make an appropriation to pay these claims, and under date of March 11, 1886, this office submitted a report on the claims and a substitute for the bill, so as to make appropriation also for the payment of claims for improvements on the land sold to the Leavenworth, Pawnee and Western Railroad Company, and authorize and direct the Attorney-General to institute legal proceedings against the said railroad company, its successors or assigns for reimbursement to the United States of the sums found due the Indians on account of these claims.

Inasmuch as the United States is responsible to the Delawares for the payment of the claims, both for damages on account of the right of way over the allotted lands and for the improvements on lands sold the railroad company, and inasmuch as the

said railroad company is liable for both, I am of opinion that these two classes of claims should be considered and acted upon together; and that provision should be made at the same time for compelling the railroad company to discharge its liability in relation thereto.

I have the honor, therefore, to transmit herewith a copy of the report of March 11, 1886, on the subject, as embodying the views of this office thereon, and to recommend that the House Committee on Indian Affairs be requested to strike out the clause of the bill relating to the matter, and insert in lieu thereof the following, viz:

"The sum of thirty-nine thousand six hundred and seventy-five dollars and sixteen cents, of which ten thousand seven hundred and fifteen dollars and seventy-five cents shall be paid to individual members of the said tribe for improvements upon lands sold to the Leavenworth, Pawnee and Western Railroad Company, under the provisions of the treaty with the Delaware tribe of Indians of date May thirtieth, eighteen hundred and sixty, in accordance with the concluding paragraph of article two of said treaty, and twenty-eight thousand nine hundred and fifty-nine dollars and forty-one cents shall be paid to the individual members of said tribe through whose allotted lands the said Leavenworth, Pawnee and Western Railroad Company secured right of way, in accordance with the concluding clause of article three of the said treaty of May thirtieth, eighteen hundred and sixty: *Provided*, That the amount to be paid each member of said tribe claiming indemnity for improvements taken, and damages on account of right of way of said railroad company through the allotted lands, shall be determined by the Commissioner of Indian Affairs and approved by the Secretary of the Interior.

And the Attorney-General is hereby authorized and directed to institute the necessary legal proceedings against the Leavenworth, Pawnee and Western Railroad Company, its successors or assigns, for recovery of the amounts heretofore found by the Department of the Interior, to be due from said railroad company, its successors or assigns, under the last paragraph of the second article of the treaty with the Delaware tribe of Indians of May thirtieth, eighteen hundred and sixty, and under the concluding clause of the third article of said treaty, and for damage done the said Indians in the taking and destruction of their property by said railroad company, which sums when recovered shall be used to reimburse the United States for the sum appropriated in the foregoing paragraph of this bill."

If amended, as herein suggested, section 2 of the bill under consideration provides for the payment of just claims which should have been satisfied many years ago, and the payment of which has been repeatedly recommended by this office and the Department, as will be seen from the public documents inclosed herewith.

I recommend that the committee be requested to give its favorable consideration thereto.

Very respectfully, your obedient servant,

R. V. BELT,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

It will be seen that the bill directs the Attorney-General to institute legal proceedings against said railroad company for the amount contained in said bill, which is also recommended by the Department.

Your committee recommend that the bill do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 123.

MIGUEL SALINAS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1417.]

The Committee on War Claims, to whom was referred the bill (H. R. 1417) for the relief of the heirs of Miguel Salinas, have had the same under consideration, and respectfully report:

This bill was presented in the Fiftieth Congress, first session, and favorably reported from the Committee on War Claims. It received also a favorable report from the Committee on War Claims, first session, Fifty-first Congress, but never reached on the Calendar. The latter report is concurred in and adopted by this committee.

Miguel Salinas was the owner and occupant of a large plantation on the Rio Grande, in Cameron County, Tex., and had been for twenty years prior to 1846. That year, in the month of March, the United States troops, commanded by Gen. Zachary Taylor, encamped upon this plantation, which was an exceedingly valuable one, and at this time, as in prior years, under a high state of cultivation. The lands were very extensive, and at the time of occupation by the Army, as above stated, had growing upon them very large crops of cotton, corn, sugar cane, beans, etc., about half matured.

There were also twelve houses, and built of concrete brick, some of them being very large and commodious, and all of them substantial and serviceable. Three of these were the permanent residence of Miguel Salinas and his family, and the others were used by the servants and for storehouses. There was also a windmill, a large and very strong cattle pen, a great amount of fencing in perfect condition and with upright posts, together with farming utensils and other belongings necessary for conducting the operations of so large a ranch.

The troops took possession of all the houses on the plantation, and on the 14th of April, 1846, Capt. G. H. Crossman, assistant quartermaster, U. S. Army, rented seven of them, by contract with Miguel Salinas, at $1.50 a day each, for as long a time as the Government thought proper to occupy them. This contract was approved by the commanding officer, Gen. Zachary Taylor, and the original is now on file in the Second Comptroller's Office; a copy herewith.

It was also further stipulated in the said contract that if any alterations were found necessary to be made while occupied by the Government, it would only be done with the consent of the owner, and should not detract from their value.

A fort was built upon the plantation of said Miguel Salinas, and called Fort Brown, after the officer in command. In order to render it

bombproof Assistant Quartermaster Capt. Crossman, ordered all the fences on the place hauled to the fort and used by Capt. and Engineer Mansfield for that purpose. The work gave great protection to the troops, and part of the fencing was also used by them for fuel. There was also one cattle pen or corral used by the troops, which was of the best material and strongly built.

The houses were used for the storage of supplies for the troops, officers' quarters, hospital purposes, and quarters for the men who were not furnished with tents. In the attack upon Fort Brown, Maj. Brown, who was in charge of the fort, ordered the destruction of these houses as a matter of safety to our men who were then working on the fort. This was done with the approval of Gen. Taylor, who had previously given instructions to Maj. Brown, before the battle of Palo Alto was fought, to destroy these houses if he found they were in anywise an impediment to the operations of the fort.

The occupancy by the United States Army of the plantation of the said Miguel Salinas, the building of Fort Brown thereon, the burning of his houses, together with the destruction of his crops, fences, and corral, etc., nearly beggared him, and he was compelled to procure a home for himself and family in Matamoras, as everything on his plantation was swept away completely.

He was in undisputed possession of the said lands for twenty years previous to the Mexican war, and yet but $11.12 (and that amount was paid in pork by Capt. Crossman) did he ever receive from the Government for or on account of rent of his houses or compensation for damages and loss of all his property.

While litigation has caused delay to determine ownership of several undivided interests of the grant of land of which his plantation is a part, and the Government has hitherto declined to pass on his accounts for rent, notwithstanding its contract with the said Miguel Salinas, it is conclusively shown that the latter acquired his right by purchase, and his claim against the United States has continuously remained unchallenged by anyone.

At the close of the war with Mexico a permanent garrison was established on a portion of these grounds.

In 1848 the Government refused for the first time payment of rent for the same, as there were numerous claimants for title. The contestants went into court, and the matter was not finally adjudicated until October, 1879, when the United States Supreme Court decreed in favor of Cavasos (see volume 100, page 138, of United States Supreme Court Reports); and Miguel Salinas holds title to his land from Cavasos by purchase.

Salinas again presented this claim in 1849, only to be again advised that settlement of disputed title caused further delay. He made subsequent applications, but met with no success.

This claim was presented in 1849 to Quartermaster-General Jesup, and in August of that year that officer wrote to Maj. Crossman, who made the contract with Salinas for the renting of the buildings, requesting him to furnish information regarding this claim and others for rent of grounds. Maj. Crossman answers as follows:

QUARTERMASTER'S OFFICE,
Philadelphia, 7th September, 1849.

GENERAL: * * * When Gen. Taylor reached the Rio Grande on the 28th of March, 1846, his camp was formed upon a plantation immediately upon the bank of that river and nearly opposite Matamoras. One portion of the land was under cultivation with cotton, and another with corn, beans, etc. These crops were then growing, * * * and were destroyed. * * * The fieldwork called Fort Brown was

thrown up within the limits of the camp. * * * The reputed owner of the plantation, Don Miguel Salinas, whom we found in possession, and of whom I hired all the buildings * * * for the use of the quartermaster and subsistence departments, and for hospital accommodations for our teamsters who were unprovided with tents. This was done with the approbation of the commanding general, and, after the death of Col. Cross, I agreed to pay for the use of those buildings, seven in number, at the rate of $1.50 a day. * * * My monthly report of persons and articles hired for April 1, 1846, and which is, I presume, on file in your office, embraces these buildings from the 14th to the 30th of that month, with the rate of hire and name of reputed owner. I never made but one payment for the rent of these buildings, because they were all destroyed before another month expired; and, in my report for May, 1846 (which was forwarded to Maj. Thomas at Point Isabell, under cover of my letter of the 25th of June, a copy of which, marked No. 1, is herewith inclosed), the same report of these buildings was contained; and a payment of $11.12 in part for rent of them is noted; and, under the head of remarks, the following explanation, viz:

These buildings located in our camp were rented by me for storing army supplies, etc. (See contract dated 14th of April, 1846.) During the attack upon Fort Brown, as the enemy sought shelter in them, they were all burned or destroyed by the order of the late Maj. Brown, then commandant of that post. The buildings were actually occupied for the use of the Army from the 14th to the 30th of April, inclusive; and the subject of this contract, together with the compensation due to the owner of the buildings, under the circumstances, is respectfully submitted for the consideration of the War Department. A triplicate of this contract was, I believe, forwarded direct to your office, but I can not find a retained copy of it among my papers, nor have I been able to discover the date of the letter inclosing it, which, from the bustle and confusion of that time, may not ever have been copied by my clerk. From the fact, however, that in my letter to Maj. Thomas I called his particular attention to the subject, I presume, as a matter of course, the contract was duly forwarded for the files of the Treasury Department at Washington.

The destruction of the fences, as charged in the fourth item of the account, * * * is entitled to more consideration than many of the others. * * *

The plantation referred to, upon which the troops encamped, was surrounded and divided by extensive fences, built of upright posts, and wattled. Some of this fence, if not the greater portion of it, appeared strong and substantial, and must have cost a great deal of labor to build it. * * * Some of this fence was used by the troops for fuel, but by far the greater portion of it was taken up under my direction, by order of the commanding general, a few days prior to our retrograde upon Point Isabel, and thrown into Fort Brown, to be used as fuel for its garrison during the anticipated siege of that post, and also to enable the engineer officer, Capt. Mansfield, to construct those numerous bomb proofs which so admirably protected our soldiers during the fierce bombardment which quickly followed our departure. I kept an account of upwards of 400 wagon-loads of this fencing stuff which was hauled into Fort Brown, and I have no doubt that all the fences on and around the plantation referred to were in some way and another used by the troops. * * * Some fair and equitable compensation is undoubtedly due the owners for the damages they sustained for the loss of their crops and fences and buildings. * * *

I am, general, very respectfully, your obedient servant,

G. H. CROSSMAN,
Major and Quartermaster.

After the receipt of the above report from Major Crossman, Gen. Jesup writes to Conrad, Secretary of War, under date of August 13, 1852, as follows, in reference to this claim:

As far as the public agents entered into contracts we are unquestionably bound in good faith to fulfill them; but the contracts were limited to a compensation of $1.50 a day for the houses and cattle pen on the land when it was occupied, and these contracts probably terminated with the destruction of the buildings; but, having rented them, it is a question whether we are not bound to pay for them, they having been destroyed by order of the commanding officer. * * *

I submit a report of Maj. Crossman giving the facts in relation to the original establishment of the troops upon the site and the contract with Mr. Salinas; also a report of Major Chipman in relation to the arrangement with Mr. Stillman, whose title has merged in that of Mr. Cavazos.

I have the honor to be, sir, your obedient servant,

THOS. S. JESUP,
Quartermaster-General.

Hon. C. M. CONRAD,
Secretary of War, Washington City.

Your committee finds that at the close of the war with Mexico litigation began in the local courts by which it was sought to determine the title to that tract of land involving the plantation of the claimant. The various suits instituted continued from 1848 to 1879, and were only interrupted by the period of the civil war. In the latter year the Supreme Court of the United States decreed in favor of the ownership in José Maria Cavazos, and through whom the claimants now hold.

The heirs of Salinas, being wholly unfamiliar with the English language, and having to depend upon the attorneys for Cavazos, who were also interested in the suits, and the incidental change of counsel by death, removal from the country, and other circumstances, left claimants wholly at their mercy, and the delay by the Government in the settlement of the accounts of the claimants is one which can not otherwise be regarded than seriously unjust, and should be immediately remedied, as the title to the ownership of the various claimants to the land has been settled by a recent opinion of the Attorney-General, and which pretext the Government has availed itself of heretofore in refusing payment.

Abundance of evidence has been furnished the committee by affidavits of many old neighbors and near residents of Salinas, who were living there at the time Gen. Taylor camped upon his plantation, and who reside in and about Brownsville at the present time, and were soldiers under Gen. Taylor, as to the excellent condition of Salinas's plantation; the substantial and durable character of the numerous buildings upon it; the large amount of fencing, and—which was indispensable to the Army in making the very effective defense it did during the protracted siege, thereby saving human life and protecting Government property—the large crop of cotton, corn, sugar cane, beans, etc., growing at the time; and that the values sought to be placed upon all this property by the different witnesses is fair and just, as the amount now asked for by the claimants, viz, $9,445.38, is less than one-half of the sum originally proposed as a proper settlement of the claim; and your committee recommend the passage of the bill for that amount.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 124.

GEORGE F. BROTT.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1415.]

The Committee on War Claims to whom was referred the matter of George F. Brott, assignee of Brott, Davis & Shons, for 272 bales of cotton taken fram the schooner *Sea Lion*, respectfully report:

This same bill was favorably acted upon third session, Forty-fifth Congress. It was also favorably reported from the Committee on War Claims, first session, Fiftieth Congress. It received a favorable report at the hands of the same committee, first session, Fifty-first Congress, but was not reached on the Calendar.

The latter report of the Committee on War Claims is concurred in and adopted by this committee.

[House Report, No. 2306, Fifty-first Congress, first session.]

The act of Congress of July 13, 1861, prohibited commercial intercourse between citizens of States not in insurrection with citizens of States in insurrection, *except* by license of the President of the United States, under rules prescribed by the Secretary of the Treasury.

Alabama, among other States, was soon after declared to be in insurrection.

Acting in good faith, and, as they supposed, in accordance with the laws of war, Brott, Davis & Shons, a commercial firm of New Orleans, La., obtained from G. S. Dennison, special agent of the Treasury Department and acting collector of customs at New Orleans, a permit dated February 16, 1863, which was in the following words:

"The United States military and other authorities at New Orleans will permit cotton to be received here from beyond the United States military lines, and such cotton is exempt from seizure or confiscation. An order is in my hands from Gen. Banks approving and directing this policy. The only condition imposed is that cotton or other produce must not be bought with specie. All cotton or other produce brought hither from the Confederate lines by Brott, Davis & Shons will not be interfered with in any manner, and they can ship it direct to any foreign or domestic port."

On the back of this permit was indorsed, "Approved, D. G. Farragut, Admiral." Rear-Admiral D. G. Farragut sent the following instructions to the commander of the Mobile blockade:

"Should any vessel come out of Mobile and deliver itself up as the property of a Union man desiring to go to New Orleans, take possession, and send it into New Orleans for an investigation of the facts, and if it be shown to be as represented, the vessel will be considered a legal trader under the general order permitting all cotton and other produce to come to New Orleans."

Armed with this authority, Brott, Davis & Shons purchased a large amount of Confederate money and dispatched an agent to the port of Mobile. The firm also sent the following communication to their correspondents at Mobile:

"All cotton and other produce shipped from within the Confederate lines to our address, by yourself, as our agent, will be protected by us under authority from the

military and naval authority of this place, dated February 16, 1863, permitting us to receive such cargoes and to reship them to foreign ports. The origial permit alluded to we herewith inclose to you."

In obedience to these instructions, and under the above authority, the agent of Brott, Davis & Shons purchased 272 bales of cotton, and shipped the same on board the schooner *Sea Lion*, which vessel was purchased for this purpose, and was also the property of Brott, Davis & Shons.

The *Sea Lion* cleared at the port of Mobile for Havana as a necessity, as a blind, in order to get out of the port of Mobile, but she was in fact bound for New Orleans. She sailed from Mobile in the daytime on the 8th of May, 1863. When 5 miles southeast of Fort Morgan, which commands the entrance to the Mobile harbor, and at about 12 o'clock, midnight, she was captured and sent to Key West, where she was libelled in the district court for southern Florida in prize. She made no resistance, and all her papers, including the license above referred to, were given up.

The supercargo stated that his orders were to drop down to the fleet off Mobile, supposing that the officers of the fleet would assist them to get to the mouth of the Mississippi, where he was to communicate with the owners. He added that the vessel was dropping down with the tide, and did not change her course when taken.

The captain stated that when the vessel was cleared he expected to go to Havana. "After passing Fort Morgan, the supercargo said we would go to New Orleans. I should have taken her wherever the supercargo said."

These two persons, the captain and the supercargo, on the next day filed a claim for the vessel in behalf of Brott, Davis & Shons, swearing that the vessel was bound in good faith to the port of New Orleans, there to deliver her cargo in pursuance of the license of G. S. Dennison, special agent of the Treasury Department.

Brott and Davis also made joint affidavit as "claimants of the schooner *Sea Lion*, and of the cargo laden and found on said schooner." It was read in evidence by consent.

Hubbell, a passenger on the *Sea Lion*, and of course disinterested, swore that, "although the schooner was cleared for Havana, as a necessity and in blind, in order to get out of the port of Mobile, he understood she was going to New Orleans, and that he was bound for and expected to go to New Orleans, and that he was told by the supercargo of the *Sea Lion* that it was his intention when off the bar to lay alongside the blockading fleet in order to obtain a permit to come to New Orleans. That the said schooner came out of the Swash Channel, and that when over the bar, instead of following the channel down the coast, as is the usual custom of blockade runners, she stood out for the blockading fleet to obtain the before-mentioned permit. That, as evidence of the intention of the supercargo to place the said schooner in the hands of the blockading fleet, he took her out when the wind was very light, so that she was not able to sail over 2 knots an hour, and that it was with difficulty he induced the pilot to take her out with such a wind. That the schooner hove to on hearing the first gun from the blockading fleet, and awaited being captured."

On the same examination the captain said: "The cotton, I think, belonged to Brott, Davis & Shons. The supercargo told me it so belonged."

A certificate from the military governor of Louisiana, read by consent, stated that the firm of Brott, Davis & Shons was well known to him as "unconditionally loyal."

With the facts contained in the foregoing statement before them the district court condemned the vessel.

The case was appealed to the Supreme Court of the United States, and at its December term, 1866, the decision of the court below was affirmed upon the mere technical point that "the President could grant such a license," and that "the paper relied upon was a nullity and gave them no protection." (5 Wallace, 647.)

Mr. Justice Greer said:

"I do not concur in this judgment. The vessel went out of Mobile by permission of the commander of the blockade there. To condemn such property would be a violation of good faith. No English court has ever condemned under such circumstances."

The evidence in the case proved that Brott, Davis & Shons were loyal; that they owned the *Sea Lion* and its cargo; that the voyage was sanctioned by the civil, military, and naval authority of the United States, and that their license was employed by the claimants in good faith. There is no evidence in the record to contradict any of these points. Mere supposition, not based upon evidence, can not be allowed to overcome positive, uncontradicted evidence given by witnesses of unimpeachable character. Since the former report by the third session of the Forty-fifth Congress, a letter has been received from Gen. N. P. Banks strongly indorsing the

firm of Brott, Davis & Shons as to their loyalty and self-sacrificing devotion to the Union cause.

If the act of Admiral Farragut in privileging the property of these claimants was irregular, it does not prove such property condemnable as prize. Where the owners, as in this case, stand clear of any intention of fraud, their acts are not illegal, although the authority may have been irregular. (Edwards, 327; 1 Dodson, 226; 3 Robinson, 155; Dean on Blockade, 86, 115.)

The Treasury Department reports as follows:

"The total proceeds of the sale of the *Sea Lion* and cargo was $73,964.74; the taxed cost and expenses were $15,640.46; leaving a net residue of $58,324.28; one-half of which sum has been distributed to the captors, leaving in the Treasury $29,162.14.

In view of these facts, the committee recommend that said sum of $29,162.14 be paid to George F. Brott in full satisfaction of his claim for said schooner *Sea Lion* and cargo, and the committee report a bill for that purpose.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 125.

HEIRS OF STERLING T. AUSTIN, DECEASED.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3523.]

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 3072, Fifty-first Congress, first session.]

At the breaking out of the war of the rebellion, Sterling T. Austin, sr., was the owner of a plantation in Carroll Parish, Louisiana, known as the "Three Bayou Place," situated some 3 or 4 miles from Bunche's Bend or Old River, containing 2,380 acres, of which 900 were cultivated. In the spring of 1863, there were on the place the cotton crops of the years 1861 and 1862, respectively, amounting to upwards of 1,200 bales, averaging 440 pounds each, 82 mules, 100 head of cattle, 300 hogs, 10,000 bushels of corn, 8 yoke of work cattle, 6 wagons, carpenter and blacksmith tools, plantation tools, library of 300 volumes, family portraits, household and kitchen furniture—claimed to be worth $300,000. In the summer of 1862, Mr. Austin, for sanitary reasons, removed his family, consisting of his wife and three minor children—two daughters and a son—to Georgia, himself remaining in Louisiana. In the spring of 1863, procuring a pass through the Federal lines at Natchez., Miss., he went to Georgia for his family. During his absence all the movable property on his plantation, described above in general terms, was, by order of General J. B. McPherson, military commander of that district, seized and carried away by the military forces. The mules, forage, and supplies were applied to the use of the Army, and the cotton shipped north to Memphis, or invoiced over to the authorized officers of the Government by J. E. Jones, formerly lieutenant and quartermaster of the Sixteenth Wisconsin Volunteers, now of Carroll County, Iowa. The levee at Ashton was cut by the Army, and his whole plantation submerged. He came back, after the water had receded, to a scene of desolation and enforced desertion. In consequence of his well-known Union sentiments, and the absence of anything like legal protection, a residence among his old neighbors was both unpleasant and unsafe.

In the autumn of 1863, with his family and his negroes, of which he had a large number, he removed into Texas, remaining in San Antonio till after the close of the war, when he removed to Galveston. While at Galveston, in 1865, he went up the railroad during the summer and bought up scattered lots of cotton, all of which were seized by the

agents of the United States Treasury. He then formed a partnership at Galveston, purchased the schooner *Mary Lee*, and entered the Mexican trade, removing to New Orleans late in 1865. The annual overflow of his old plantation meanwhile rendered it untenable. In 1867 the schooner was wrecked and became a total loss. In this year it appears that Mr. Austin placed his claim against the Government in the hands of Judge Lewis Dent for collection, and he seems to have relied implicitly upon this attorney. After the loss of the schooner, Mr. Austin again turned his attention to planting and purchased another plantation in his old parish of Carroll. He became postmaster at Lake Providence, and in 1870 removed his family from New Orleans. Meanwhile the son, Sterling T. Austin, jr., had grown into manhood, been admitted to the bar, became prosecuting attorney and then parish judge. In 1871, according to General Negley's recollection, in 1872 or 1873, according to others, Mr. Austin was in Washington pushing his claim, surprised and indignant at Judge Dent's failure to prosecute it. It is quite certain he was at the capital in each of the years 1873, 1874, and 1875. In May, 1873, he made, with Charles E. Hooey, esq., an attorney of Washington, a contract to prosecute the claim, the original copy of which is among the papers before the committee. There is also another original contract for the same purpose among the papers, dated in February, 1875, signed by Mr. Austin and John A. Grow & Co., then a firm of attorneys or claim agents in Washington. In January, 1874, a petition for relief on account of these seizures was presented to the Congress, but no evidence of any action thereon has been found.

On the 9th day of July, 1879, Sterling T. Austin, sr., while still postmaster at Lake Providence, La., was shot dead in broad daylight in the open street of that village. The son, Sterling T. Austin, jr., still parish judge, hearing the shot and being informed that his father was the victim, went at once to the rescue and was met and shot down in the same place by the same person. The son lingered a few days and died of his wounds. After the burial of father and son the widow and daughters sought to collect and preserve the business papers of the deceased, but found their offices had been despoiled and all their private business papers had been carried away or destroyed, and have never since been recovered.

In the Forty-seventh Congress, the widow and remaining children asked that they be permitted to prosecute in the Court of Claims their demands against the United States.

The act of March 3, 1883, 22 Stats., page 804, is as follows:

CHAP. 111.—An act for the relief of the representatives of Sterling T. Austin, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the claims of the successors in interest and legal representatives of Sterling T. Austin, deceased, late of the parish of Carroll, in the State of Louisiana, for cotton taken by the military and civil authorities of the United States, or by either of them, during the years eighteen hundred and sixty-three, eighteen hundred and sixty-four, and eighteen hundred and sixty-five, in the States of Louisiana and Texas, be, and the same are hereby, referred to the Court of Claims with full jurisdiction and power in the said court to adjust and settle such claims, and to render a judgment in said cause for the net amount realized by the United States from the sale of such cotton as shall appear from the evidence to have been so taken by said authorities; and in such action the said representative shall be entitled to recover as aforesaid, any statute of limitation to the contrary notwithstanding: *Provided, however*, That it be shown to the satisfaction of the court that neither Sterling T. Austin, senior, nor any of his surviving representatives gave any aid or comfort to the late rebellion, but were throughout the war loyal to the Government of the United States.

Approved, March 3, 1883.

The Court of Claims, after a protracted trial, found from the evidence that—

The military forces of the United States captured at the Three Bayou place 250 bales of cotton, which belong to said decedent, and which was turned over to the Treasury agents. The Treasury agent of the United States seized in the State of Texas 110 bales of cotton belonging to said decedent. On the 360 bales seized as aforesaid the defendants have realized the sum of $59,287.

Thus it appears that the Government of the United States now has in its possession $59,287 of money derived from the sale of property belonging to the decedent, Sterling T. Austin, and now claimed by his heirs at law.

The Court of Claims found as a fact that the surviving representatives, the present claimants, were loyal to the United States. The following is the language of the court:

But the court is satisfied that the surviving representatives did not give any aid and comfort to the late rebellion, but were throughout the war loyal to the Government of the United States.

As to the loyalty of Sterling T. Austin, the court found, in substance, that he was constructively disloyal, because he lived in the Confederacy, but they found the beneficiaries of this bill strictly loyal.

Your committee, in view of the foregoing statement of facts, report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 126.

HUGH McNAIRY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2277.]

The Committee on War Claims, to whom was referred the bill (H. R. 2277) for the relief of Hugh McNairy, executor of A. C. Thomson, deceased, report as follows:

This is a claim for coffins furnished by the decedent to the Forty-eighth Regiment of Kentucky Mounted Infantry. Claim stated at $145.32.

It appears from the evidence filed in support of the bill that the Forty-eighth Regiment of Kentucky Mounted Infantry was stationed at Princeton, Ky., during a part of the years 1863 and 1864, and that during the time it was stationed there a number of the soldiers died, and that A. C. Thomson, the undertaker, furnished the coffins for some of them, and that he has not been paid for them.

Your committee is of opinion that the claim is just and ought to be paid, and report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 127.

J. H. BUGG AND OTHERS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2249.]

The Committee on War Claims, to whom was referred the bill (H. R. 2249) for the relief of J. H. Bugg and others, report as follows:

This is a claim for pay for services rendered prior to muster by J. H. Bugg, J. T. Guess, and Nathan Fralick.

It appears from the evidence filed in support of this bill that J. H. Bugg was commissioned captain of Company B, Seventeenth Kentucky Volunteer Cavalry, October 23, 1864; that J. T. Guess was commissioned first lieutenant Company B, Seventeenth Kentucky Volunteer Cavalry, October 23, 1864; that Nathan Fralick was commissioned second lieutenant Company B, Seventeenth Regiment Kentucky Volunteer Cavalry, October 23, 1864, and all served until April 25, 1865.

By the act of Congress approved June 3, 1884, it was intended by a general bill to give relief in this class of claims, and it appears that Fralick has presented his case to the War Department under the act, and that his case has been decided adversely.

Having obtained the benefit of the services of these officers, the Government ought not to set up a technical plea in bar of its obligation to make compensation therefor, and your committee are of opinion that payment should be made.

Your committee therefore recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 128.

A. W. POLLARD.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2264.]

The Committee on War Claims, to whom was referred the bill (H. R. 2264) for the relief of A. W. Pollard, report as follows:

This is a claim for pay for services rendered prior to muster by A. W. Pollard, formerly first lieutenant Company C, Seventeenth Regiment Kentucky Volunteer Cavalry.

It appears from the petition and evidence filed in support thereof that A. W. Pollard was commissioned first lieutenant in the Seventeenth Regiment Kentucky Volunteer Cavalry on August 22, 1864, and served from that date to May 19, 1865, with Company C of said regiment; that he was not mustered into service until May, 1865.

Your committee are of opinion that the claimant rendered the service charged for and ought to be paid, and report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 129.

WILLIAM B. ENNIS.

FEBRUARY 5, 1892.—Committed to the Comm ittee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4519.]

The Committee on War Claims, to whom was referred the bill (H. R. 4519) for the relief of William B. Ennis, report as follows:

That this is a claim for one horse taken from the claimant's farm in Lyon County, Ky., in 1865, by Company H, Seventeenth Regiment Kentucky Cavalry Volunteers. Claim stated at $150.

The proof clearly shows the taking and use of the horse by the Army, and the loyalty of the claimant is fully established, and your committee think the bill for his relief should become a law, and therefore recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 130.

W. C. M. TRAVIS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2340.]

The Committee on War Claims, to whom was referred the bill (H. R. 2340) for the relief of W. C. M. Travis, report as follows:

Your committee adopt the report hereto annexed from the Committee on War Claims of the Fifty-first Congress, and report back the bill and recommend its passage.

[House Report No. 2699, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the claim of W. C. M. Travis, submit the following report:

That the Committee on War Claims of the Fiftieth Congress, not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding of facts, under the provisions of the act of March 3, 1883, known as the Bowman act.

Said claim has been returned by said Court of Claims to the Committee with the following findings of fact, to wit:

COURT OF CLAIMS.

[W. C. M. Travis *vs.* The United States. Congressional No. 2363.]

This case being a claim for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, the court, on a preliminary inquiry, finds that W. C. M. Travis, the person alleged to have furnished such supplies or stores, or from whom the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

Filed April 15, 1889.

[Court of Claims. Congressional case No. 2363. W. C. M. Travis *vs.* United States.]

At a Court of Claims held in the city of Washington on the 21st day of April, A. D. 1890, the court filed the following statement of case and findings of fact, to wit:

STATEMENT OF CASE.

The claim in the above-entitled case, for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, was transmitted to the court by the Committee on War Claims of the House of Representatives on the 10th day of February, 1888.

C. D. Pennebaker, esq., appeared for claimant, and the Attorney-General, by James H. Nixon, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court on the 15th day of April, 1889, found that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war.

The case was brought to a hearing on its merits on the 14th day of April, 1890. The claimant in his petition makes the following allegations (in substance):

"That he is a citizen of Crittenden County, Ky.; that he resided there during the late war of 1861; that there was taken from him June 15, 1864, one horse, of the value of $150, for the use of and by the Army of the United States, by troops under command of Col. Sterling, Thirty-fifth Kentucky Mounted Infantry, which was allowed by the Quartermaster-General for $140, and has never been paid."

The court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT:

The claimant had been a private in the Fifteenth Kentucky Cavalry of the United States Army, and was mustered out in November, 1863, when he returned to his home in Crittenden County, Ky., and was engaged in farming.

On the 15th of June, 1864, as alleged in his petition, one horse was taken from him by and for the use of the Army. His claim was presented to the Quartermaster-General and allowed by him for the sum of $140. No evidence has been taken for or against the claim by the claimant or the defendant since the report of the Quartermaster-General, and the claim has never been paid.

BY THE COURT.

Filed April 21, 1890.
A true copy.
Test: This 22d day of April, A. D. 1890.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Your committee therefore report herewith a bill providing for the payment of the amount found due claimant by said Court of Claims, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 131.

S. F. CRIDER.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2222.]

The Committee on War Claims, to whom was referred the bill (H. R. 2222) for the relief of S. F. Crider, report as follows:

The claim is for $1,300, and evidence is furnished to show that the amount was expended by the claimant while engaged in recruiting a company of one hundred and six men, which company was mustered into the service of the United States Government in the Seventeenth Kentucky Volunteer Cavalry, April 18, 1865. The claimant has never received any compensation for the money thus expended by him, and as the loyalty of the claimant is established beyond question, your committee recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 132.

SARAH K. T. BAKER.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 863.]

The Committee on War Claims of the Fiftieth Congress, to whom was referred the above-mentioned claim, not being fully and clearly advised of all the facts in said claim, referred the same to the Court of Claims for a finding of facts, under the provisions of the act of March 3, 1883, known as the Bowman Act.

The claim has been returned to the committee by the court with findings of fact.

Your committee recommend that said findings of the Court of Claims be carried out by the passage of the bill, which is in harmony with the conclusions reached by the court, and ask that said findings be printed as a part of this report.

[House Mis. Doc. No. 33, Fifty-second Congress, first session.]

Letter from the Assistant Clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of Sarah K. T. Baker vs. The United States.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 18, 1891.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

Hon. CHAS. F. CRISP,
Speaker of the House of Representatives.

[Court of Claims. Congressional case No. 4371. Sarah K. T. Baker *vs.* The United States.]

At a Court of Claims held in the city of Washington on the 8th day of June, A. D. 1891, the court filed the following statement of case and findings of fact, to wit:

STATEMENT OF CASE.

The claim in the above-entitled case was transmitted to the court by the Committee on War Claims of the House of Representatives on the 1st day of May, 1888.

V. B. Edwards, esq., appeared for claimant and the Attorney-General, by John C. Chaney, esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The case was brought to a hearing on its merits on the 14th day of May, 1891. The claimant in her petition makes the following allegations:

That in the year 1862 she was the sole owner in fee simple of about 28 acres of real estate, situate in the county of Bourbon, State of Kentucky, with a large brick dwelling house thereon, together with servants' rooms, ice house, corncrib, and the necessary outbuildings. That said ground was inclosed and suitably divided into yard, garden, orchard, pasture, and cultivated grounds by fencing made mostly of plank and posts. The door yard embraced about 4 acres of ground, elaborately and beautifully ornamented with evergreens and other trees, the property being located immediately adjoining and in full view of the city of Paris, in said county and State.

First. That in the early part of the year 1862 said premises aforesaid were taken possession of, used, and occupied by United States infantry, under the command of Major Brought and Colonel Warner, for the period of more than four months, and the fair and reasonable rental value thereof was $100 a month, $400.

Second. That in June and July, 1862, said premises were taken possession of, used, and occupied by Colonel Metcalf, of the U. S. Army, who quartered fourteen sick soldiers for two weeks, used her provisions, the labor of her servants, beds, and bedclothing in the house, of the value of $300.

Third. That the actual cost of repairing said premises on account of said occupancy was $700.

Fourth. That from the 15th day of July, A. D. 1863, to the 15th day of December, A. D. 1865 (two years and five months), said premises were again taken possession of, used, and occupied (as said) by order of Gen. Burnside, U. S. Army, and United States troops occupied the same, about two hundred in the main building and often several thousand on the grounds, the fair and reasonable rent was $100 a month, $2,900.

Fifth. That said officers caused forts to be built thereon, threw up heavy earthworks, built an arsenal on same, dug deep, large ditches, cut down forest and ornamental trees. To repair and place property in same condition as when taken would cost $4,700.

Sixth. The said officers and soldiers used the fencing, barn, stables, and ice house for fuel, of the value of $2,100, and also used and consumed 40 cords of wood, value of $200, making total of said claim $11,300. Your petitioner is the sole owner of said claim, no part of which has been assigned, transferred, or liquidated. Said claim was referred to this court on the 1st day of May, A. D. 1888, by the Committee on War Claims of the House of Representatives. Prior to such reference the said claim had been duly presented to and prosecuted before the Third Auditor of the Treasury Department, and by said Auditor referred to the Quartermaster's Department of the War Department.

The claimant abandoned and waived the claim for stores and supplies set out in paragraph six of said petition.

The court upon the evidence, and after considering the brief and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

The claimant's house and grounds at Paris, Ky., were taken possession of by the Army of the United States in its operations during the war of the rebellion in 1862. The house was used as a hospital and breastworks were built on the grounds to protect it from the enemy. It was so occupied from time to time during the years 1862, 1863, 1864, and 1865.

The rental value of the house while thus occupied was $2,400.

BY THE COURT.

Filed June 8, 1891.
A true copy.
Test this 18th day of December, A. D. 1891.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 133.

HEIRS OF CATHERINE MORIN.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1203.]

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 2063, Fifty-first Congress, first session.]

The Committee on War Claims, who have had under consideration House bill No. 7637, a bill for the relief of the heirs of Catherine Morin, deceased, would respectfully report the same back to the honorable House of Representatives with the expression of opinion that the same ought to pass, for the reasons hereinafter given.

Your committee find that September, 1862, Catherine Morin, a widow lady, resided on her farm about 3 miles from Newport, in Campbell County, Ky.; that she had four sons, three of whom were then in the U. S. Army, in the Eighth Kentucky, Third Kentucky, and Eighth Kentucky Regiments, respectively, and that shortly after that date the other son enlisted in the Army of the United States, in the Fifty-third Kentucky Regiment, and that her son-in-law, Frank Bates, was in the naval service of the United States, and that all served their country as soldiers until the war ended in 1865.

We further find from the sworn proof before us that about the — day of September, 1862, the United States troops, to wit, the Ohio, Indiana, and Michigan soldiers, about 8,000 men, encamped on the farm of Catherine Morin, and took and converted her valuable brick residence into a hospital for the sick and wounded soldiers, and kept same about two months, that they greatly damaged said house, yard, and premises by tearing off and destroying shutters, mantels, and paper of same, and by using and consuming the fences for fuel, and by tramping down and destroying the shrubbery in and about the yard; and that they burned and destroyed much fencing and wood, and cut and burned much valuable timber for fuel, and consumed as diet and provender for the men and horses much corn and hay, apples, etc., and built a magazine and dug and excavated about 800 yards in length of rifle pits through the lands of said Catherine Morin, greatly to her damage. All this was done while said troops were guarding the cities of Covington and Newport, Ky., and Cincinnati, Ohio, against the approach of and threatened attack upon said cities by the rebel general E. Kirby Smith.

We further find that soon after said damage was done by said troops to said Catherine Morin's property, she caused the same to be assessed by three loyal citizens of the vicinity, and had her claim made out against the Government of the United States for the same and left it in the hands of an attorney, who she and the heirs directed to be, and which they believed had been, filed in the proper office of the Government for adjudication and payment, but that from neglect or oversight of their then attorney said claim was not filed for settlement and payment, which fact was not known to the said Catherine Morin or the present claimants until recently.

We find from the proof before us that Mrs. Morin and all the present claimants, some of whom now reside in Indiana, Ohio, California, and Kentucky, were during the war loyal to the Government of the United States.

All of which is respectfully reported.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 134.

SAMUEL FELS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2173.]

The Committee on War Claims, to whom was referred the bill (H. R. 2173) for the relief of Samuel Fels, report as follows:

That the proof in this case shows that the claimant purchased five hogsheads of tobacco from John E. Woodward, as sold by him under military orders of Gen. E. A. Paine, then commanding the Western District of Kentucky, and paid said Woodward therefor $2,333.62; that on February 20, 1865, E. A. Lindsay, by his suit against Mr. Fels in the Jefferson County circuit court of Kentucky, established his right to said tobacco as the owner thereof at the time it was seized and sold by order of Gen. Paine. The court decided that the orders of Gen. Paine, in seizing and selling said tobacco, were illegal, and that no title passed to Mr. Fels; and the claimant was forced to and did pay the owner of said tobacco, E. A. Lindsay, its value, being $2,504.85.

Your committee are of opinion that Mr. Fels bought (and paid for) said tobacco, in good faith, from the military authorities of the United States without notice of said Lindsay's ownership thereof or claim thereto, and that he should be reimbursed for the amount he paid for it.

Your committee report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 135.

JAMES S. FRIZELL.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 868.]

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 1347, Fifty-first Congress, first session.]

The claimant was an acting aide-de-camp to Lieut. Col. John J. Landrum, commanding the Eighteenth Regiment Kentucky Volunteer Infantry, and while serving in that capacity on the 17th day of July, 1862, the United States forces being overcome by the Confederates at Cynthiana, Ky., under the command of General Morgan, the horse upon which he was mounted together with the equipments and which was his property was captured by the Confederate forces.

On the 6th day of August, 1864, the claimant presented before the Third Auditor of the Treasury, under the act of March 3, 1849, his claim to recover from the United States the value of his horse and equipments as follows:

For the horse, $200; saddle, $30; two blankets, $20; bridle, $3; amounting to the sum of $253. His claim was proven by the testimony of John J. Landrum, as follows:

STATE OF KENTUCKY, *County of Gallatin, ss:*

On this 28th day of July, 1864, personally appeared before me, a justice of the peace within and for the county and State aforesaid, duly authorized to administer oaths, John J. Landrum, to me well known to be a creditable witness, who being duly sworn deposes and says: That he is the identical John J. Landrum who was lieutenant-colonel of the Eighteenth Regiment of Kentucky Volunteer Infantry, commanded by Col. William A. Warner in the service of the United States in the war for the suppression of the rebellion of 1861-1862. That he was in command of the Federal force at Cynthiana, Ky., on the 17th day of July, 1862, when and where he was attacked by a force under command of Col. H. Morgan. That J. S. Frizell, who makes the foregoing claim for one horse, one saddle, two blankets, and one bridle, was engaged in said battle and under my immediate command, and was by me regularly assigned and ordered upon duty in said action. That at the time of his being so assigned and ordered upon duty as aforesaid, he, the said J. H. Frizell, was mounted upon a horse, equipped and of the value as stated in the foregoing application. That the horse and equipage, as stated by applicant, was lost on the 17th day of July, 1862, in consequence of and in the manner as stated in claimant's foregoing application, and which said loss was sustained without any fault or negligence on the part of the claimant; and the deponent further states that the said J. S. Frizell did render him valid service in said battle by executing every order confided to him with good judgment, great bravery, and dispatch.

J. J. LANDRUM.

Sworn to and subscribed before me the day and year first above written.

JAMES S. MCHATTON,
Justice of the Peace.

STATE OF KENTUCKY, *County of Gallatin, ss:*

I, R. L. Ireland, clerk of the county court within and for said county, do certify that James S. McHatton, esq., before whom the foregoing affidavit was made, was at the time of taking same and is still an acting justice of the peace within and for the said county, duly commissioned and sworn, and that the signature purporting to be his, which appears to the above affidavit is his genuine signature.

In testimony whereof I hereunto set my hand and affix my seal of office at Warsaw, Ky., on this 28th day of July, 1864.

[SEAL.] R. L. IRELAND,
C. G. C. C.

The decision of the Third Auditor of the Treasury is as follows:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
June 20, 1865.

SIR: The claim of J. S. Frizell for indemnity for one horse and equipage captured by the enemy July 17, 1862, at the battle of Cynthiana, Ky., has been examined and it is found that the claimant not being in the military service of the United States at the time of the loss, the provisions of the act of 3d of March, 1849, do not extend to the case.

This claim is therefore rejected.

Very respectfully,

JOHN WILSON,
Auditor.

W. S. HAVILAND, Esq.,
Attorney, Cynthiana, Ky.

Whereupon the claimant petitioned Congress for relief, as his case was not provided for by the general law indemnifying soldiers for the loss of their horses which they took into the service of the United States. His claim was referred by the War Claims Committee for investigation by the Court of Claims under the Bowman Act of March 3, 1883. The court upon evidence submitted by depositions properly taken when the United States was represented for cross-examination found the claimant loyal during the war of the rebellion, but did not decide upon the merits of the claim, and dismissed it for want of jurisdiction on the following opinion:

If the power of the Third Auditor was conferred exclusively upon him, then his decision is final, and can not be re-examined here (Kaufman's Case, 96 U. S. 567; Davidson's Case, 21 C. Cls. R., 298; Marshall's Case, *id.*, 307). If his power was not exclusive, the claimant had a right of action which he ought to have prosecuted here; as his claim is based upon a "law of Congress" this right of action is now barred by legislation.

In either view his case is barred by the provisions of a law of the United States, and so falls within the exclusion of the third section of the act of March 3, 1883. (22 Stat. L., 485; Ford's Case, C. Cls. R., 519.)

Your committee, having examined the evidence submitted to the Court of Claims, find that the case is established beyond a doubt by the deposition of Lieut. Col. John J. Landrum and by the testimony of Luther Van Hook, who served with the claimant as a lieutenant of a home guard company, and who, being a neighbor, knew the horse that was lost by the claimant and its value. Also by the testimony of another neighbor, Samuel Williams, who values the horse at $250 and the equipments at $30, and was an eye-witness to the service and capture of the horse and equipments, as alleged by the claimant. Other corroborative affidavits are produced, and your committee recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 136.

JAMES BISHOP.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2243.]

The Committee on War Claims, to whom was referred the bill (H. R. 2243) for the relief of James Bishop, report as follows:

The claim is for $150, for a mare taken by and for the use of the Federal troops during the late war of the rebellion. From an examination of the accompanying papers in the case your committee is of the opinion that the claim is a just one, and as the loyalty of the claimant is established by affidavits of a number of the neighbors of the said James Bishop, the committee recommend that the bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 137.

JOHN N. DORR.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2201.]

The Committee on War Claims, to whom was referred the bill (H. R. 2201) for the relief of John N. Dorr, sr., report as follows:

That the claim is for a horse taken from the claimant by the Army of the United States during the late war. Claim stated at $150.

The proof filed in support of the bill shows that in 1863 the command of Col. Johnson, U. S. Volunteers, took from the claimant one horse of the value of $150, for which he has not been paid. The loyalty of the claimant and the value of the horse is established by the best citizens of Crittenden County, Ky.

Your committee report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 138.

MATILDA COOK.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2223.]

The Committee on War Claims, to whom was referred the bill (H. R. 2223) for the relief of Matilda Cook, report as follows:

The claim is for a mule taken from the claimant, in Caldwell County, Ky., by the Army of the United States during the late war. Claim stated at $150.

The claim was filed in the office of the Quartermaster-General November 15, 1865, and on April 21, 1884, disallowed, for the reason that the Quartermaster-General was not satisfied as to the loyalty of the claimant.

The agent who investigated the claim reported that the mule was taken from the claimant by Capt. Mass, of the Army of the United States, for the use of the Army, and was worth $150. The loyalty of the claimant is established by the best citizens of Princeton, Ky.

Your committee is satisfied as to the loyalty of the claimant and the taking and use of the property by the Army, and report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 139.

WILLIAM G. GROOM.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2178.]

The Committee on War Claims, to whom was referred the bill (H. R. 2178) for the relief of William G. Groom, report as follows:

This is a claim for quartermaster's stores, alleged to have been taken from the claimant's farm in Caldwell County, Ky., by the Army of the United States during the late war. Claim stated at $700.

This claim was filed in the office of the Quartermaster-General November 15, 1865, and September 7, 1866, it was finally considered and not allowed; the Quartermaster-General was not satisfied as to the loyalty of the claimant.

Your committee is satisfied that the stores were taken and used by the Army as charged for; and that the claimant was a loyal citizen, and report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 140.

ELIZABETH D. AND ANNA S. FROBEL.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3687.]

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 2679, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the petition of Elizabeth D. Frobel and Anna S. Frobel, report as follows:

It is alleged that during the late war the Army of the United States took possession of the claimants' farm, situated in Fairfax County, Va., and took therefrom large quantities of stores and supplies for the use of the Army.

It seems to your committee that an investigation by the Secretary of War, or under his direction, is a matter of necessity before intelligent action can be had upon this case.

The committee therefore report herewith a bill conferring power upon the Secretary of War to have the case investigated through the Quartermaster's Department, and to report the result, with his recommendation thereon, to Congress for its action in the premises.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATI

WILLIAM G. GROOM.

FEBRUARY 5, 1892.—Committed to the Committee of the W
to be printed.

Mr. STONE, of Kentucky, from the Committee
mitted the following

REPORT:

[To accompany H. R. 2178.]

The Committee on War Claims, to whom was
2178) for the relief of William G. Groom, report

This is a claim for quartermaster's stores, all
from the claimant's farm in Caldwell County,
United States during the late war. Claim st

This claim was filed in the office of the Q
vember 15, 1865, and September 7, 1866, it w
not allowed; the Quartermaster-General wa
loyalty of the claimant.

Your committee is satisfied that the stor
the Army as charged for; and that the cl
and report back the bill and recommend its

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ee on War Claims, submit-

885.]

th in a report made by this Congress, which is appended

e of the bill.

Congress, first session.]

s referred the bill (H. R. 5191) for the er consideration and submit the follow-

s made at the first session of the Fiftieth , and your committee adopt the said re- nd recommend its passage.

ftieth Congress, first session.]

vits filed in this case that Mr. Andrew Lutz, a s authorized, in August, 1861, by Secretary of State of New York, the late Hon. E. D. Morgan, he Morgan Rifles, and that said Lutz was to be g at that time major of the Eighth Regiment New

orization Lutz opened recruiting offices in the cities ken, Poughkeepsie, Schenectady, Rondout, Brooklyn ed for said regiment 417 men, who were regularly mus- United States.

expenses of recruiting, lodging, and subsistence of these of $5,000 therefor.

vember, 1861, the said 417, recruits then known as the Mor- lidated with another body of recruits, who had been recruited wski, and was afterward known as the Fifty-eighth Regiment rs, and Mr. Krzyzanowski was appointed colonel of the said regi-

z presented his claim for the amount expended by him, as aforesaid, , and Paymaster Larned paid to him, on account of same, the sum of

le the official records in relation to this case are incomplete, and that a fire which occurred in the office of the disbursing officer at New York r of the papers and vouchers were burned and destroyed, yet from the

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 141.

ANDREW LUTZ.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2885.]

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 2161, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 5191) for the relief of Andrew Lutz, have had the same under consideration and submit the following report:

The report of the Committee on War Claims made at the first session of the Fiftieth Congress on this claim clearly states the case, and your committee adopt the said report as their own, and report the bill back and recommend its passage.

[House Report No. 1662, Fiftieth Congress, first session.]

It appears from the papers and affidavits filed in this case that Mr. Andrew Lutz, a reputable citizen of New York City, was authorized, in August, 1861, by Secretary of War Cameron and the governor of the State of New York, the late Hon. E. D. Morgan, to raise a regiment to be known as the Morgan Rifles, and that said Lutz was to be the colonel of said regiment, he being at that time major of the Eighth Regiment New York State Volunteer Militia.

That in pursuance of such authorization Lutz opened recruiting offices in the cities of New York, Jersey City, Hoboken, Poughkeepsie, Schenectady, Rondout, Brooklyn and Williamsburg, and recruited for said regiment 417 men, who were regularly mustered into the service of the United States.

That he defrayed all the expenses of recruiting, lodging, and subsistence of these men, and expended a sum of $5,000 therefor.

That some time in November, 1861, the said 417, recruits then known as the Morgan Rifles, were consolidated with another body of recruits, who had been recruited by Mr. W. Krzyzanowski, and was afterward known as the Fifty-eighth Regiment New York Volunteers, and Mr. Krzyzanowski was appointed colonel of the said regiment.

That said Lutz presented his claim for the amount expended by him, as aforesaid, namely, $5,000, and Paymaster Larned paid to him, on account of same, the sum of $1,400.

That while the official records in relation to this case are incomplete, and that owing to a fire which occurred in the office of the disbursing officer at New York City a number of the papers and vouchers were burned and destroyed, yet from the

papers and affidavits filed with your committee there is sufficient evidence to show that said Lutz recruited the men and paid the expenses of same from August to November, 1861, out of his own means, and that, the claimant being now nearly seventy years of age and in destitute circumstances, and having given his time and money as above stated, and his claim having been recognized by a part payment thereof, your committee think that the claimant is justly entitled to the balance claimed by him, namely, $3,600, and report back an amended bill and recommend its passage.

Your committee would state that the claim has been presented to previous Congresses, but no action has been had thereon.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 142.

J. C. RUDD.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4464.]

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 1352, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 4089) for the relief of J. C. Rudd, report as follows:

The proof in this case shows that J. C. Rudd, of Owensboro, Ky., was the owner of a building at said town which was used and occupied by the postmaster at Owensboro from 1861 to 1875 for the distribution of United States mail. At the time of the occupation of said property by the postmaster at Owensboro there was no definite agreement between him and said Moore, the postmaster, as to the amount of rent to be paid by the Government for the use of said property, but it was agreed that the Government would pay him a reasonable price for the occupation of said property.

Your committee are satisfied that the property was used and occupied as charged for, and that the rental value was $3,500 for the time it was used, and report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 143.

MRS. ANN E. HEISKELL.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3847.]

The history of the claim is fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 1601, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the above entitled bill, having considered the same, report as follows:

Sufficient reasons appear to warrant the direct action of Congress on this bill without its reference to the Court of Claims under the Bowman act of March 3, 1883.

The lady presented, within the limit for filing such, a mixed claim for quartermaster and commissary supplies furnished from her farm in Hampshire County, W. Va., to the Union Army in 1863.

The portion thereof pertaining to the Quartermaster-General's branch was made the subject of a special investigation by an agent of that officer, and the testimony taken by him and others conclusively establishing claimant's active loyalty, that she was aged and a widow, and substantially verifying her allegations, an allowance for that part of her claim was recommended and paid to her.

The Commissary-General is not provided with investigating agents, and, having no direct means of taking testimony, disallowed her claim for commissary stores in toto, because the officers receiving or impressing them omitted to record and report the facts, and because she did not identify them and obtain their receipts.

We hold this an insufficient reason why she should not be paid, if she was otherwise entitled; it is established by ample and credible testimony that large bodies of Union troops were present or on the march near her farm when her supplies, and which she is shown to have had and owned, consisting of fat cattle and hogs, were furnished, and that the same passed into the possession and use of said troops, and that the prices charged were reasonable.

If this portion of the claim, therefore, is referred to the Court of Claims for a report under the Bowman act as to loyalty and facts, that court could only report what is already before the committee, and which, as to one branch, is conceded and of record.

But the question of claimant's active loyalty is affirmed, is not a separable one, and her other allegations being equally well proven, we see no necessity for compelling her to reëstablish them, and recommend the passage of the bill.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 144.

JOHN RHODES AND WIFE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R 3256.]

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 310, Fifty-first Congress, first session.]

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 4015, Fiftieth Congress, second session.]

The Committee on War Claims, to whom was referred the petition of John Rhodes and wife for relief, together with the record or findings of fact of the Court of Claims under the Bowman Act, have had the same under consideration, and report a bill in lieu thereof, and recommend its passage.

The petition and bill were by the Committee on War Claims of the Fiftieth Congress, first session, transmitted to the Court of Claims under the act of Congress approved March 3, 1883, called Bowman Act. The Court of Claims, after hearing the case upon motion, decided that the court had no jurisdiction to try the same, and dismissed the claimant's petition. Their findings of fact are as follows:

COURT OF CLAIMS.

[Congressional case, No. 3179. John Rhodes and wife *vs.* The United States.]

The claim in the above-entitled case for supplies or stores, alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, was transmitted to the court by the Committee on War Claims of the House of Representatives on the 20th day of March, 1888. V. B. Edwards, esq., appeared for claimant, and the Attorney-General, by W. I. Hill, his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case was brought to a hearing on a motion by defendants to dismiss for want of jurisdiction on the 29th day of January, 1888.

It appears that the claimant alleges in his petition that on or about the 23d day of March, 1868, said John Rhodes filed in this honorable court a claim against the United

States, No. 3123, for quartermaster and commissary stores taken and used by the United States Army, as per Exhibit A.

That on or about the 2d day of March, 1869, said John Rhodes filed an amended petition for the value of a suga mill, a sawmill, fifteen sugar kettles and settings of the same, valued at $16,630, taken and sold or used by the United States, as per Exhibit B. That both of the aforesaid claims were by this court dismissed for want of jurisdiction (said petitions made part hereof).

That said John Rhodes herein to his said wife has, under a judgment rendered against him in the State of Louisiana in a suit by his said wife for a separation of property and for protection of her legal rights, transferred to his wife aforesaid his claims herein in further satisfaction of said judgment. That the Committee on War Claims of the House of Representatives, on or about the —— day of March, A. D. 1888, referred to this court the said John Rhodes's claim as set forth in House bill No. 8590, first session Fiftieth Congress (a copy hereto annexed as Exhibit C).

That prior to such reference the said claim, as set forth in Exhibit D, made part hereof, had been duly presented to and prosecuted before the Southern Claims Commission, under the provisions of the act of Congress approved March 3, 1871, by whom a portion was disallowed. Upon what grounds the sum of $37,679.50 was disallowed your petitioners fail to comprehend, for they aver that the evidence fully sustained the claim for this amount. Your petitioners further aver that the prices allowed by the Southern Claims Commission were grossly inadequate to the real value at the time and place said property was taken by the United States Army.

Your petitioners further aver that gross injustice, without authority or warrant in fact or law, was done to them in this, to wit: That by said Exhibit D after the allowance of $21,971 by one of the Commissioners, and after the said Commissioners of Claims had reported to the House of Representatives for allowance the said sum of $21,971, was by one W. L. reduced to $19,971. The said W. L., without any authority in law or fact, and in utter violation of the vested rights of the claimants, wrote on the papers, "Reduce the sugar $2,000, at least.—W. L.," which said illegal and wrongful act of said W. L., without authority in law or fact, caused to be deducted from the sum allowed by the Commissioners and reported to Congress the sum of said $2,000.

That all the items stated in Exhibit D were duly presented and prosecuted before the Southern Claims Commissioners, and the items are not increased in quantity or value and were taken as set forth in the claims filed before the Sourthern Claims Commission, and now on file in the Treasury Department, and a copy made part of this petition and marked Exhibit E.

That the sum of $19,971 mentioned in their petition was paid them about the year 1875 in pursuance of the act of Congress approved March 3, 1875. (16 Stat., 645.)

The court, after considering the briefs of the counsel on both sides, decides, on the authority of Burwell's case (22 Court of Claims, 92), that the acceptance of the amount appropriated upon the award of the Claims Commissioners is a bar to further controversy and excludes jurisdiction under the Bowman Act.

The claimants' petition is therefore dismissed.

The committee are of the opinion that great injustice has been done the claimants in deducting certain amounts, and they think that the case is an exceptional one; and as the committee intended that the facts should be submitted and returned by the court to Congress, they referred the claim under the Bowman Act, but as the court disclaimed jurisdiction, they, therefore, report a bill that will give the court jurisdiction to try the case and report the facts to Congress for further legislation.

Your committee therefore report the accompanying bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 145.

JOHN S. SAMMIS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1658.]

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 3255, Fifty-first Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 4011) for the relief of John S. Sammis, report as follows:

The claim is for use and occupation of certain buildings and a wharf situated at Jacksonville, Fla., alleged to have been taken and used by the United States military authorities during the late war, and used for storing supplies and stores. Claim stated at $5,221.63.

The record shows that the Government actually occupied the property during the period for which the rent is claimed, but the rental value of the property is not clearly established.

It seems to your committee that an investigation by the Secretary of War, or under his direction, is a matter of necessity before intelligent action can be had upon this case.

The committee therefore report herewith a bill conferring power upon the Secretary of War to have the case investigated through the Quartermaster's Department, and to report the result, with his recommendation thereon, to Congress for its action in the premises.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 146.

JOHN D. THORNE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1032.]

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 2930, Fifty-first Congress, first session.]

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, hereto annexed and made a part of this report.

Your committe report back the bill and recommend its passage with the following amendments:

In line 7 strike out "seventeen" and insert "twelve," and in line 7 strike out "nine hundred and twenty" and insert "eight hundred."

[House Report No. 3826, Fiftieth Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3903) for the relief of John D. Thorne, praying compensation for cotton taken by the United States troops in Louisiana, have had the same under consideration and report:

On the 3d of March, 1863, claimant, who was then a citizen of the parish of St. Martin, La., became the owner, by purchase at an administrator's sale, of 55 bales of cotton, weighing in the aggregate 25,600 pounds, for which he paid the sum of $5,120, as is shown by the original receipt of the administrator who had the sale. The place at which the sale took place was distant from claimant's residence some 20 miles, and instead of taking the cotton to his home he had it stored in the storehouse of his friend, a Dr. Tarleton.

On the 4th of May following this cotton was taken by United States troops, under the direction of Lieut. Bramby, assistant quartermaster, attached to the command of Gen. Banks, was carried off in Government wagons to Port Barre or Barre Landing, and thence shipped to New Orleans. Claimant was not present at the time of the seizure (indeed was entirely unapprised of the proceeding), and in consequence of his absence the officer declined to give a receipt for the cotton, although it was demanded by the aforesaid Dr. Tarleton. The bales had not been marked, as they were intended for sale, and the administrator left them to be marked by the purchaser. Nor were they marked by the claimant, he having postponed doing so until the time came for their removal.

This omission made it somewhat difficult to trace the cotton, but there is scarcely room for a doubt that the cotton found its way to New York, where it was sold, and

the proceeds paid into the Treasury of the United States. By reference to House Ex. Doc. No. 97, Thirty-ninth Congress, second session, page 21, the quartermaster of New York reported as received from New Orleans, as follows: May 20, 1863, 412 bales; May 25, 1863, 400 bales, and June 29, 1863, 530 bales. It is fair and reasonable to assume that claimant's cotton made a part of some one of these lots.

That the cotton of claimant was taken to New Orleans immediately after its seizure is sufficiently shown by the letters of Gen. Grover and the indorsement of his chief quartermaster. This last-named person says that all the cotton shipped from Barre Landing (the nearest landing to the point from which claimant's cotton was taken) was sent to the chief quartermaster of the Gulf in New Orleans, and he has no doubt the claimant's cotton was so shipped. That it was sent thence to New York is shown by the facts heretofore referred to, and that it was then sold and the proceeds paid into the United States Treasury is ascertained from the same document referred to, pages 61 and 62.

In ascertaining the price per pound which should be allowed the claimant, it would seem fair to ascertain the average between the highest and lowest prices at which cotton sold at New York during the year 1863, deducting therefrom whatever may seem reasonable for the expenses attending the transportation from the point at which it was taken to New York, as well as the expenses attending the sale. It seems that the price at New York during the year ranged between 54 and 88 cents for cotton of the quality which the claimant's is shown to have been, an average of which would be about 70 cents. Your committee have no means of determining with accuracy the amount which should be allowed the Government on account of transportation and other expenses, and have therefore concluded to deduct from this price 20 cents per pound and to allow the claimant 50 cents; which will make the amount due him as compensation $12,800.

In regard to the claimant's loyalty the proof is entirely satisfactory. They consist of evidences of appointments to various offices under the United States Government, oaths, passes, registration certificates, etc.

The petitioner has filed an elaborate affidavit, exhibiting the history of his efforts about the prosecution of his claim, which in the estimation of your committee relieves it from the objection that it has not been prosecuted with diligence.

It seems that very shortly after the property was taken claimant proceeded at once to take proof as to his ownership, etc.; that in 1865 he sent on his papers containing his proofs to his nephew, then a resident of Washington, and a lawyer; that he subsequently, but within the time prescribed by law, placed his claim in the hands of one Justin McCarty, a lawyer practicing in the Court of Claims, for prosecution in that court, who, for some unaccountable reason, neglected to present his petition; that in 1869 he employed Henry Sherman as attorney to prosecute his claim, and has been prosecuting it with vigor ever since.

Your committee, in view of the foregoing facts, report back the bill and recommend its passage, with an amendment as follows: In line 6 strike out "seventeen" and insert "twelve," and in line 7 strike out "nine hundred and twenty" and insert "eight hundred."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 147.

SALLY STERRETT TATE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2337.]

The Committee on War Claims, to whom was referred the bill (H. R. 2337) for the relief of the estate of Sally Sterrett Tate, deceased, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, hereto annexed and made a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 3474, Fifty-first Congress, second session.]

That Judge D. W. Sterrett, the father of Sally Sterrett Tate, was in favor of the Union of the States, and, although he died just prior to the commencement of the war of the rebellion, the question of secession had been agitated and discussed, and Judge Sterrett was elected a member of the legislature of Alabama on the Union ticket.

Judge D. W. Sterrett left surviving him as his only heir at law and sole devisee under his will Sally Sterrett, who afterwards became the wife of Warren Tate. Sally Sterrett was a minor when the war commenced, but was married at the age of nineteen, and before peace was declared. She was a timid, modest young lady, and was not disloyal prior to nor after her marriage. She, like her father, was loyal to the Union.

Judge Sterrett, by his last will, gave all his property of every description, except a few specific bequests, to his daughter Sally, in which was embraced the property that is the foundation of this claim.

Sally Sterrett Tate departed this life in the year 1880, leaving her children as her sole heirs to this claim, inasmuch as no transfer thereof had been made by her during her life. Her husband, Warren Tate, has relinquished all of his interest in such claim (if he ever had any therein) to the said children. It has not been the province of anyone especially to look after the prosecution of this claim in the interest of the children of the decedent, and now they are taking an interest in the claim in their own behalf, and seeking an appropriation. The history of the appropriation of the cotton by the United States is as follows:

F. K. Beck was the executor of the estate of David W. Sterrett, deceased, and guardian of Sally Sterrett, his only child, who resided on the estate of her father, the said David W. Sterrett, in Wilcox County, State of Alabama; in 1863 or 1864 the said F. K. Beck, executor and guardian aforesaid, in settlement of the estate of said David W. Sterrett, deceased, and of his guardianship of his ward, Sally Sterrett, who was then aged nineteen years, and had married, turned over to her in said settlement 200 bales of cotton marked "D. W. S." (meant for David W. Sterrett), and one lot of 150 bales of cotton marked "F. K. B." (meant

for F. K. Beck), in lieu of money which he had used belonging to said estate and to his ward, the said Sally Sterrett; that the said lot of 200 bales of cotton marked "D. W. S." was stored by the said executor and guardian at Bridgeport, the landing on the Alabama River nearest to the plantation of said David W. Sterrett, and the said lot of 150 bales of cotton marked "F. K. B." was stored by the said executor and guardian at Beck's Landing, on the Alabama River; that it was the custom of the county to store the cotton crop at the landings ready for shipment; that there being no market or sale for said cotton, it remained at the landings aforesaid securely sheltered until on or about April 30, 1865, when the United States transports *Laurel Hill*, *Iberville*, and others, landed at Bridgeport and at Beck's landing, and by orders of the officer in command of said transports the cotton hereinbefore described, and which was still so stored at said landings, was taken on board of said transports and carried to Mobile, Ala.; that as soon as the husband of said Sally Sterrett Tate could obtain transportation he went to Mobile, Ala., and found the said transport *Laurel Hill*, and on inquiry was told by the clerk of the said transport that the cotton taken as hereinbefore stated had been unloaded and stored in the Government warehouse in said city of Mobile; that Tate, with one George F. Watson, immediately went to said Government warehouse aforesaid; that said George F. Watson had by request of said Executor F. K. Beck, prior to its delivery to his said ward, Sally Sterrett, weighed and marked the lot of cotton hereinbefore described as marked "F. K. B.;" that said cotton marked "F. K. B." was then and there seen by Tate in said Government warehouse, and it was fully identified by the said Watson as the cotton of said ward which had been weighed and marked by him as hereinbefore stated; that Tate had every assurance that all of the cotton taken as above described had been landed and stored in said warehouse, that being the place where the Government stored all cotton; that Tate went at once to General Gordon Granger, then in command of the United States forces at Mobile, and asked to have the said cotton restored to Sally Sterrett Tate, she having married; that General Granger replied that said cotton having been turned over to the civil authorities at Washington he was powerless to act, except through orders received from Washington; that this interview with General Granger was on or about the 26th day of May, 1865; that Tate about the same date made application to said General Granger for the return of certain stock and supplies taken from the plantation of the said estate about same date as the cotton, said stock and supplies having been taken and appropriated by command of General Lucas for the use of the Army under command of General Steele; that General Granger ordered the return of the stock and supplies, or payment for them if they could not be returned to the owner, the said Sally Sterrett Tate; Tate then determined that as soon as was possible by reason of the restoration of order, application should be made as directed by General Granger, in behalf of the said owner, for the restoration of said cotton which was then stored in the Government warehouse as aforesaid; that before any further steps could be taken, however, for the recovery of said cotton, the magazine located at Mobile exploded, causing great destruction of property, including the Government warehouse where the cotton hereinbefore described was stored, and which was also destroyed.

The cotton, 320 bales, weighed 202,440 pounds net, and its local market value was 40 cents per pound.

There are attached hereto and made part hereof affidavits, copies of

affidavits, and a certified copy of Judge Sterrett's will to sustain the facts above set forth.

Your committee therefore report herewith a substitute for the bill referring the claim to the Court of Claims for adjudication, and recommend its passage.

CIRCUIT COURT OF THE UNITED STATES, FIFTH JUDICIAL CIRCUIT,
Northern District of Florida, at Pensacola, Fla.:

Before me this day personally appeared Walter Tate, who, after being by me first duly sworn, on oath says:

I have been a resident of this city since 1870. I resided from 1858 to 1870 in Camden, Wilcox County, Alabama. My wife was Sally B. Sterrett, only child of D. W. Sterrett, of said county. My wife departed this life in 1880, while residing in this city. During her lifetime I, as her husband, filed a bill before Congress asking compensation for cotton, stock, and supplies taken and appropriated by the United States Army, in said county, shortly after the conclusion of hostilities by the surrender at Appomattox. Said seizures and impressments were made about the last of April or early in May, 1865 (exact date not now positively recalled, but appears definitely in the original documents appended to the bill filed in behalf of the minor heirs of my wife), and as said husband. The claim was originally filed in name of affiant, subsequent to her death, and the necessity for letters of administration on her personal estate, this claim is in its present style.

I know that during the life of my wife no transfer of any character was ever made of any interest therein, and that since her death no transfer has been made by me or any one authorized so to do or interested therein. Affiant further says that if he ever had any interest therein by statute of any State, he has heretofore and does hereby relinquish all such claim or interest to and in behalf of said children.

W LTER TATE.

Sworn to and subscribed before me this 30th day of December, A. D. 1890.

[SEAL.] PHILIP WALTER, *Clerk.*
Per W. W. COTTER, *Dp. Clk.*

I, David W. Sterrett, being of sound and disposing mind and memory, do make and constitute this, my last will and testament, as follows:

1st. I give and bequeath unto my beloved daughter Sally all my estate of every character and description whatsoever, except certain specific bequests hereinafter to be named.

2nd. It is my will and desire that my plantation as now organized be kept up under the control and management of my executor hereinafter named, but I give my executor power to sell and dispose of my plantation, negroes, stock, etc., whenever in his judgment circumstances have arisen rendering that course best for my estate, or to sell any part or portion of the same. And I give him the same power to buy for the benefit of my estate when he thinks it necessary to do so.

3rd. It is my desire that my executor select for the use of my daughter such articles of household furniture as he may judge proper to be retained, and that the balance be sold.

4. I give to my brother, A. A. Sterrett, five thousand dollars in trust, to be applied to maintenance and education of his two children, Major and Alphene, and the balance, if any, to be paid over to them in equal parts when they respectively arrive at the age of twenty-one, but without interest.

5. I give my carriage horses to Mrs. Martha J. Beck.

6. It is my desire that in case my daughter dies under the age of twenty-one, leaving no child, that then the estate in the hands of my executor be divided as follows, viz: The property which my late wife received from the estate of her father and mother to be divided equally between Mrs. Sarah H. Bythewood, Mrs. Louisa E. Fox, and Mrs. Eugenia R. Cook; the balance of my estate shall go to my bro. A. A. Sterrett, in trust for his children.

7. I desire that my executor hereinafter named shall have, and I hereby invest him with, full power to sell and dispose of any portion of my estate and to buy and re-invest at his discretion. And it is further my will and desire that he be required to give no bond for the faithful administration of my estate, nor be required to make settlement with the probate court, but these powers and these exemptions and all the unusual powers contained in this instrument are limited to the executor herein

named and are not to extend to or be used by any administrator who might subsequently administer upon my estate.

8. I hereby appoint my friend Franklin K. Beck executor of my last will and testament and desire that he retain the control and management of my estate until my daughter arrives at the age of twenty-one years, unless he chooses sooner to relinquish it. I also appoint him the guardian of my daughter and I give to him the sole and entire care of her person, education, and estate.

D. W. STERRETT [SEAL.]

Signed, sealed, and published as and for the last will and testament of David W. Sterrett by D. W. Sterrett, in presence of us, who in his presence and at his request have signed our names hereto as witnesses.

Wilcox Co., Ala., March 4, 1858.

A. C. MATHESON.
H. E. CURTIS.

THE STATE OF ALABAMA, *Wilcox County:*

I, James T. Beck, judge of probate in and for said county and State, hereby certify that the foregoing is a true and correct copy of the last will and testament of David W. Sterrett, deceased, as the same was probated and recorded in my offi e.

Given under my hand and the seal of said court at office in Camden, this 2d day of January, A. D. 1891.

JAMES T. BECK,
Judge of Probate.

STATE OF ALABAMA, *Wilcox County:*

T. S. Caldwell being duly sworn, says: I reside in Wilcox County, Alabama, and have resided in said county all my life. I am thirty-three years of age. I am by occupation the intendant of the town of Camden. I was general shipping agent for the Confederate government, Ninth Congressional district, from 1863 to the surrender, and as such agent I was frequently at Bridgeport and frequently passed by the cotton stored at that point and saw it often. I remember distinctly to have seen the lot of cotton stored and stacked on the north side or under the north shed and known as the Sterrett cotton, belonging to Walter Tate by virtue of his marriage of the daughter of Judge Sterrett. I had no occasion to count the bales, but remember well the pile, and that it was marked D. W. S.

There were no other persons having the same initials, and the cotton was always called the Sterrett cotton by Mr. Martin Dunn (now dec'd), who had charge of the warehouse and landing. I know that I have seen it more than one hundred times, as my business called me there and necessarily in view of it several times a day and for weeks and months in succession. I have had much experience in shipping and stacking produce and freight of all kinds, and am sure there could not have been less than two hundred (200) bales. I know that it was well enveloped in bagging and well stored. The bales were marked "D.W. S.," and it is my best impression that Mr. Dunn always called it two hundred bales. He always spoke of it as the Sterrett or Tate cotton. Miss Sally Sterrett had been married in 1862 to Mr. Walter Tate and hence this cotton was sometimes called Tate cotton. I know when it was taken by the transports in 1865.

It was on their return from carrying troops up the Alabama River, and was about the last of April, but I do not remember the exact date. I had seen the cotton but a few days before the taking, and on the morning of the passage down of the transports many persons visited Bridgeport to see the scene and gather and discuss the news. All could see that the cotton had just been taken from the warehouse and cotton yard, except the remnants of such bales (not many) as could not be handled without tearing to pieces. I know the claimant, Walter Tate, and Sallie S. Ta e, his wife. I am not in any way related to either of them and in no way interested in the result of this claim.

The facts stated above as to the seizure were universally known in this entire section at the time, as there were no steamers on the river save those that carried up the troops. As to the ownership I know nothing more than that it was marked as I have described, and while I have often heard it mentioned before and since, it was always called Sterrett or Tate cotton. I only know that it was taken by the Government transports by the universal talk of persons at the time, some of whom saw and knew the boats as the same that carried up the troops, and by the additional fact that no other boats would have been permitted to run the river at that time, the Government authorities seizing and controlling all property that could be used by them.

T. S. CALDWELL.

Sworn to and subscribed before me this 21st day of January, 1878.

W. HENDERSON,
Judge of Probate, Wilcox Co., Ala.

STATE OF ALABAMA, *Wilcox County:*

George F. Watson, being duly sworn, says: I am a resident of Wilcox County, Alabama, and know the claimant, Walter Tate and his wife, quite well, the latter from infancy.

I was present and witnessed the transfer by Col. F. K. Beck, in 1863, of one hundred and fifty bales of cotton, marked "F. K. B.," then stored at his plantation at Beck's Landing, to Walter Tate, as a part of the final settlement of his executorship of the estate of Mrs. Tate's father, Judge D. W. Sterrett. I also remember that Col. Beck, in said settlement, turned over all the cotton belonging to the Sterrett estate, amounting to a very large number of bales, a portion of which was stored at Bridgeport, but I have no recollection of the number now.

I remember that on the return of the United States transports down the Alabama River, in April or May, 1865, they took a great deal of cotton, and that it was generally and notoriously known that Walter Tate's cotton had been seized and carried to Mobile. As soon thereafter as transportation could be obtained I know that Walter Tate went down to Mobile in pursuit of his cotton and found a portion of it stored in the Government warehouse in the city. I was with him at the time and know that the clerk or quartermaster in charge of the steamer *Laurel Hill* gave a certificate, taken from his books in my presence, of a number of bales taken on board said steamer from Beck's Landing, marked "F. K. B.," and informed him of where it had been placed in the Government warehouse.

I went with him, the said Walter Tate, at his request, in search of the cotton and we found it and examined it fully. I then went to Mr. Wm. J. Ledyard, of Mobile, with Walter Tate, who requested him (W. J. Ledyard) to intercede for him with General Granger, then in command in Mobile, and ask him to restore his cotton that had been taken. This was done because it was known in the city that Mr. Ledyard and Gen'l Granger were old friends and Mr. Tate was an entire stranger. All the facts were presented to Mr. Ledyard and full reference given whereby their truth could be fully established. Mr. Ledyard presented the case to Gen'l Granger, who replied that the cotton had been turned over to the Government and that he could do nothing except on orders from Washington.

All these facts are fresh in my mind and can be substantiated, no doubt, by Mr. Ledyard, with whom I have not talked on the subject from that time, but the recollection of which was impressed on me, as it prevented further efforts in that direction by others who hoped to regain cotton taken from them at the same time.

If W. J. Ledyard, a merchant of high standing in the city and a warm personal friend of the commanding general, could not recover Mr. Tate's cotton that was notoriously known to have been taken, and had then just been found and identified in the Government warehouse, it was deemed useless to make further efforts.

Mobile at that time was under military rule; public transportation by river or railroad had not been opened and no cotton market was established. The price in New Orleans and New York, to one of which cities pretty much all the cottons were shipped at that time, ranged at about forty cents per pound, though at a later date in that year after the market was freely opened, in Mobile cotton sold readily in that city at fifty-five cents per pound.

Cotton freight from Wilcox County to Mobile before 1865 ranged from fifty cents to two dollars per bale.

Present prices from fifty cents to one dollar per bale.

GEO. F. WATSON.

Sworn to and subscribed before me this Jan'y 22nd, 1878.

W. P. MURPHY,
Justice of the Peace for Wilcox Co., Ala.

STATE OF ALABAMA, *Wilcox County:*

I, W. Henderson, judge of probate in and for said county, hereby certify that W. P. Murphy is personally known to me and is an acting justice of the peace in and for Wilcox County, at this time. Given under my hand January 22nd, 1878.

W. HENDERSON,
Judge of Probate.

UNITED STATES OF AMERICA, *Northern District of Florida, ss:*

Before me, W. W. Potter, clerk of said district court, personally came Walter Tate, who being by me first duly sworn, on his oath declares that he resides at Pensacola, State of Florida, and is the duly appointed administrator of the estate of Sally Sterrett Tate, deceased, and is the guardian of her minor children; that he was a resident of the State of Alabama until 1870; that F. K. Beck was the executor of the estate of David W. Sterrett, deceased, and guardian of Sally Sterrett, his only child, who resided on the estate of her father, the said David W. Sterrett, in Wilcox County, State of Alabama; that in 1863 or '64 the said F. K. Beck, executor and guardian aforesaid, in settle-

ment of the estate of said David W. Sterrett, deceased, and of his guardianship of his ward, Sally Sterrett, who was then aged nineteen years and had married, turned over to her in said settlement two hundred (200) bales of cotton, marked "D. W. S." (meant for David W. Sterrett), and one lot of one hundred and fifty (150) bales of cotton marked "F. K. B." (meant for F. K. Beck), in lieu of money which he had used belonging to said estate and to his ward, the said Sally Sterrett; that the said lot of two hundred (200) bales of cotton marked "D. W. S." was stored by the said executor and guardian at Bridgeport, the landing on the Ala. River nearest to the plantation of said David W. Sterrett, and the said lot of one hundred and fifty (150) bales of cotton marked "F. K. B." was stored by the said executor and guardian at Beck's Landing, on the Ala. River; that it was the custom of the country to store the cotton crop at the landings ready for shipment; that there being no market or sale for said cotton, it remained at the landings aforesaid securely sheltered until on or about April 30th, 1865, when the United States transports *Laurel Hill*, *Iberville*, and others, landed at Bridgeport and at Beck's Landing, and by orders of the officers in command of said transports the cotton hereinbefore described and which was still so stored at said landings was seized, taken on board of said transports, and carried to Mobile, Alabama; that as soon as deponent could obtain transportation, he went to Mobile, Alabama, and found the said transport *Laurel Hill*, and on inquiry was told by the clerk of the said transport the cotton seized as hereinbefore stated had been unloaded and stored in the Government warehouse in said city of Mobile; that deponent, with one Geo. F. Watson, immediately went to said Government warehouse aforesaid; that said Geo. F. Watson had, by request of said Executor F. K. Beck, prior to its delivery to his said ward, Sally Sterrett, weighed and marked the lot of cotton hereinbefore described as marked "F. K. B."; that said cotton marked "F. K. B." was then and there seen by deponent in said Government warehouse, and it was fully identified by the said Watson as the cotton of said ward which had been weighed and marked by him as hereinbefore stated; that deponent had every assurance that all of the cotton seized as above described had been landed and stored in said warehouse, that being the place where the Government stored all cotton; that deponent went at once to Gen. Gordon Granger, then in command of the U. S. forces at Mobile, and asked to have the said cotton restored to Sally Sterrett Tate, she having married; that General Granger replied that said cotton having been turned over to the civil authorities at Washington, he was powerless to act, except through orders received from Washington; that this interview with General Granger was on or about the 26th day of May, 1865; that deponent about the same date made application to said Gen'l Granger for the return of certain stock and supplies taken from the plantation of the said estate about same date as the cotton seizure, said stock and supplies having been seized and appropriated by command of Gen'l Lucas for the use of Army under command of Gen'l Steele; that Gen'l Granger ordered the return of the stock and supplies (or payment) for them if they could not be returned to the owner, the said Sally Sterrett Tate; deponent then determined that as soon as was possible by reason of the restoration of order application should be made as directed by Gen'l Granger in behalf of the said owner for the restoration of said cotton, which was then stored in the Government warehouse as aforesaid; that before any further steps could be taken, however, for the recovery of said cotton, the magazine located at Mobile and in possession of the military authorities of the United States exploded, causing great destruction of property, including the Government warehouse where the cotton hereinbefore described was stored.

WALTER TATE.

Sworn to and subscribed before me in the city of Pensacola and State of Florida, this 21st day of February, 1890.

[L. S.] W. W. POTTER,
Clerk of the District Court, Northern District of Florida.

CIRCUIT COURT OF THE UNITED STATES, FIFTH JUDICIAL CIRCUIT,
Northern District of Florida, at Pensacola:

Before me this day personally came Fanny Poole, who, after being by me first duly on oath says:

I am forty years old and am the wife of John Poole, residing on Hayne street in this city. Before and during the late war I lived with my widowed mother in Camden, Alabama, where I was reared and educated, not more than one-fourth of a mile from Judge D. W. Sterrett, whom I knew well and whose only daughter, Sally, was my schoolmate. I remember her marriage to Mr. Tate and subsequent removal to Florida, where she died. I never heard of any act or word of disloyalty to the United

States Government before or after her marriage. I was in no way related to Sally Sterrett, do not know her children, and have no interest in the result of any claim.

FANNIE POOLE.

Sworn to and subscribed before me this 11th day of Dec., 1890.

[SEAL.] PHILIP WALTER, *Clerk.*
Per W. W. POTTER, *D. Clk.*

CIRCUIT COURT OF THE UNITED STATES, FIFTH JUDICIAL CIRCUIT,
Northern District of Florida, at Pensacola:

Before me this day personally came Mary Harrell, who, after being by me duly sworn, on oath says:

I am now 83 years of age, a widow, residing on Hayne st., in this city. I resided in Camden, Wilcox County, Alabama, from 1852 to 1889, when I came to this city. During the late war I took no part and was never disloyal to the U. S. Government.

I resided within a half mile from Judge David W. Sterrett, and knew him and his wife and only child Sallie, who afterwards became the wife of Walter Tate, and moved to this city after the late war. I knew Judge Sterrett and his family quite well, and know that he was known as a Union man, and that he was elected to the legislature of that State on the Union ticket, which was his last public service, he having died shortly before the war. His daughter Sallie was a timid, modest girl prior to her marriage to Mr. Tate, which occurred during the war. I saw little of her after her marriage. As a girl I am sure she was not disloyal, and I never heard of any act or word of disloyalty after her marriage.

I was not related to her, do not know her children, and have no interest whatever in any claim in their behalf.

her
MARY × HARRELL.
mark.

Sworn to and subscribed before me this 11th day of December, 1890.

[SEAL.] PHILIP WALTER, *Clerk.*
Per W. W. POTTER, *D. Clk.*

CIRCUIT COURT OF THE UNITED STATES, FIFTH JUDICIAL CIRCUIT,
Northern District of Florida, at Pensacola:

Before me this day personally came Nannie Smith, who, after being by me duly sworn, on oath says:

I reside in this city with my husband, William Smith. I lived and was educated in Camden, Alabama, near Judge D. W. Sterrett, and was in school with his only child Sally, and knew her intimately before and during the late war. The institute which we attended was not three hundred yards from his residence. I am now forty-five years of age. I was a minor during the late war and took no part in any way in it. I never knew or heard of any act or word of disloyalty from Sally, who afterwards became the wife of Walter Tate. I did not see her after her removal to Florida. I am not related to her children, do not know them, and am not interested in any claim in their favor.

N. M. SMITH.

Sworn and subscribed before me this 11th day of December, 1890.

[SEAL] PHILIP WALTER, *Clerk.*
Per W. W. POTTER, *D. Clk.*

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 148.

JOSEPH B. McCLINTOCK.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5341.]

The Committee on War Claims, to whom was referred the bill (H. R. 5341), for the relief of Joseph B. McClintock, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fiftieth Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

HOUSE REPORT.

Joseph B. McClintock, of Harrison County, Ky., during the war commanded a home-guard company attached to the Eighteenth Kentucky Volunteers and took into service a horse with its equipment, which he necessarily used while in the service of the United States, and which was appropriated to the use of the Army. It appears by the testimony that this horse, while being used by the claimant in battle, was captured with the equipment and lost to him. For this he has received no compensation. These facts were fully established to the satisfaction of the Court of Claims. (See Congressional case No. 315, Joseph B. McClintock *v.* The United States.)

[Court of Claims. Congressional case, No. 315. Joseph McClintock v. The United States.]

The claim in the above-entitled suit having been transmitted to this court by the Committee on War Claims of the House of Representatives, and the Attorney-General having appeared for the defendants, and the suit having been brought to a hearing on the 23d day of February, 1887, the court, upon the proofs and evidence, and after hearing T. W. Tallmadge, esq., of counsel for the claimant, and Lewis Cochran, esq., of counsel for the defendants, decide:

Claimant avers that during the war he commanded a home-guard company attached to the Eighteenth Kentucky Volunteers, and took into service a horse with its equipment, which he necessarily used while in the service of the United States and which was appropriated to the use of the Army. It appears by the testimony that this horse, while being used by the claimant in battle, was captured with the equipment and lost to him.

For this he has received no compensation. His claim was presented to the Quartermaster-General, was by him referred to the Third Auditor of the Treasury, who had jurisdiction under the act of March 3, 1849; was disallowed by that officer about February 8, 1871, and the rejection was concurred in by the Second Comptroller, May 5, 1871, on the ground that the claim was not provided for by the act of March 3, 1849.

If the power of the Third Auditor was conferred exclusively upon him, then his decision is final and can not be re-examined here (Kaufman's case, 96 U. S., 567;

Davidson's case, 21 C. Cls. R., 298; Marshall's case, *id.*, 307). If his power was not exclusive the claimant had a right of action which he might have prosecuted here, as his claim is based upon a "law of Congress;" this right of action is now barred by limitation.

In either view his case is barred by the provisions of the law of the United States, and so falls within the exclusion of the third section of the act of March 3, 1883. (22 Stat. L., 485; Ford's case, 19 C. Cls. R., 519.)

Dismissed for want of jurisdiction.

The clerk will transmit certified copy of this order to the Committee on War Claims of the House of Representatives.

BY THE COURT.

A true copy of record.
Test this 22d day of July, 1887.
[SEAL.]

JOHN RANDOLPH,
Ass't Cl'k C't of Claims.

[In the Court of Claims. December term, 1884. Petition. Presented by T. W. Tallmadge, pl'tf's attorney. Filed April 16, 1885, J. R. Joseph B. McClintock *vs.* The United States. No. 815, Congressional.]

To the honorable the Court of Claims of the United States:

Your petitioner, Joseph B. McClintock, respectfully represents:

That he is a citizen of the United States, residing in Harrison County, State of Kentucky, where he resided during the late war of the rebellion.

That during the late war of the rebellion your petitioner, as captain and commanding officer of a home-guard company attached to the 18th Ky. Vols., which was under command of Lieut. Col. John J. Landram, in the month of July, 1862, took into said service a sorrel mare of the value of $165, also a saddle of the value of $30, and a blanket valued at $5, and a bridle of the value of $5.50, which property your petitioner was using while in the service of the United States, as aforesaid, and was necessary for the said service, and thus appropriated to the use of the U. S. Army, and did belong to your petitioner prior to such appropriation.

That your petitioner has not been compensated for said quartermaster stores or received in lieu thereof any other horse or similar property.

That, with a view to the recovery of the value of said property, he did present to the Quartermaster-General of the United States his claim, which was by that officer referred to the Third Auditor of the Treasury for adjudication under the act of Congress approved March 3rd, 1849, and was by said Third Auditor disallowed about Feb. 8th, 1871 (known in said office as No. 15673), which rejection was concurred in by the 2nd Comptroller of the Treasury on the 5th day of May, 1871, on the ground that the claim was not provided for by act of March 3rd, 1849.

Your petitioner therefore petitioned the Congress of the United States for relief, and, on Jan. 7th, 1884, his petition was referred with a bill, No. 2194, to the Committee on War Claims of the House of Representatives, and on or about the 18th of February, 1885, said committee referred your petitioner's claim to the honorable Court of Claims, under section 1 of an act of Congress approved March 3rd, 1883, entitled "An act to afford assistance and relief to Congress and Executive Departments in the investigation of claims and demands against the Government."

Your petitioner further states that his said claim has not been assigned or transferred, and he is the sole owner thereof; that it is just and correct; that he did not give any aid or comfort to the late rebellion, but was throughout that war loyal to the Government of the United States.

Wherefore your petitioner prays that when the facts shall have been ascertained as to his loyalty and the justice of his claim, the same may be reported to the House of Representatives of the United States or to the said Committee on War Claims, as provided in the said act of March 3rd, 1883, and that there is due to your petitioner the sum of two hundred and five and one-half dollars, for which he has herein made his claim, the value his said property was reasonably worth and was appropriated by the U. S. Army.

JOSEPH B. MCCLINTOCK.

Personally appeared before me, who, being duly sworn, says that the statements contained in the foregoing petition are true to the best of his knowledge, information, and belief.

Subscribed and sworn to before me this 14th day of April, 1885.
[SEAL.]

ORIE LEBUS,
Notary Public, Harrison Co., Ky.

This claim was presented to the Quartermaster-General, and was by him referred to the Third Auditor of the Treasury, who disallowed the same on the ground that the claim was not provided for by the act of March 3, 1849, he not being in the service of the United States except as above stated, being citizen captain of a home guard attached to said Eighteenth Regiment, as above stated. The court say that the claim is now barred by the statute of limitations, and dismisses the same for want of jurisdiction. If the act of March 3, 1849, had made provision for a case like this there would have been no necessity for making application to Congress for relief. It appears to your committee that the demands of justice require that the relief asked should be granted. A precedent has been established by the passage of the act of May 19, 1874, granting pay to Rev. George Morrison for his horse lost under exactly similar circumstances.

Your committee therefore recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 149.

JULIA A. HUMPHRIES.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2421.]

The Committee on War Claims, to whom was referred the bill (H. R. 2421) for the relief of Mrs. Julia A. Humphries, submit the following report:

The facts out of which the bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

HOUSE REPORT.

The Committee on War Claims, to whom was referred the bill (H. R. 10783) for the relief of Mrs. Julia A. Humphries, after a careful consideration of the facts as shown by the record in this case, would respectfully report:

Mrs. Julia A. Humphries, the claimant in this bill, was a resident of Fredericksburg, Va., during the late war. In May, 1864, her house and store were used by the Federal Army for hospital purposes, and the stock of goods, mostly groceries and provisions, which were there for sale were taken by the soldiers and used for the sick. The repairs to the house and store made necessary by this occupancy amounted alone to $1,200. During the siege of Fredericksburg, Va., in 1862, Mrs. Humphries lost everything she possessed, except some few securities, by the shelling and subsequent pillage of her home by the Federal troops, her losses then, in addition to her subsequent losses, amounting to $3,000.

It is shown by the evidence that the claimant's total loss from both occurrences was about $12,200.

She was loyal to the Union, and had two brothers in the Federal Army. Dr. Ger. T. Ribble, assistant surgeon Eleventh Regiment New York Volunteers, and Dr. Wm. Craig, assistant surgeon Twenty-sixth Regiment, Pennsylvania Volunteers, both testify to her loyalty and to her faithfulness and kindness as a nurse while her house was being used as a hospital and her goods and provisions being consumed by the soldiers.

In view of the facts disclosed by the record in the case the sum of $10,000 will but little more than reimburse Mrs. Humphries for the losses merely which she suffered by the occupation of her house and store for hospital purposes and for the loss of the stock of goods used by the Army. The claimant needs the money, and as is shown by the evidence, is deserving of the reimbursement proposed in the bill.

The committee accordingly recommend that the bill pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 150.

CLAUDE H. MASTIN.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1054.]

The Committee on War Claims, to whom was referred the bill (H. R. 1054) for the relief of Claude H. Mastin, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fiftieth Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

HOUSE REPORT.

The Committee on War Claims, to whom was referred the bill (S. 437) for the relief of Claude H. Mastin, surviving partner of the firm of Le Vert & Mastin, report as follows:

The facts out of which this bill for relief arises will be found stated in Senate report from the Committee on Claims of the present Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[Senate Report No. 623, Fiftieth Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 437) for the relief of Claude H. Mastin, surviving partner of the firm of Le Vert & Mastin, of Mobile, Ala., submit the following report:

The facts in this claim are exceptional. It was presented to the Forty-second Congress, and in the Forty-third it was favorably reported by Mr. Wright, then chairman of the Committee on Claims, in favor of Le Vert, but not in favor of Mastin, because he was not fully satisfied of the loyalty of Mastin. It was again presented in the Forty-fourth Congress, and favorably reported again in the Forty-fifth Congress for the sum of $1,200, the committee declining to allow compensation for injury to the property.

The report made in the Forty-third Congress sets out the facts in this case fairly, as follows:

"The claim is made up of rent of hospital for six months, from the 15th of April to the 15th of October, 1865, $1,500; damages to the same by United States troops, $510; cash paid for survey, $25; six beds, mattresses, etc., $50; making $2,085.

"The claimant asserts that occupation was taken of this hospital by Union forces in the spring of 1865, for the use of sick and wounded officers, Dr. Abidie, chief medical officer of Gen. Canby's command, thinking it desirable to secure the use of it for such purposes.

"He alleges that he had the voluntary assurance of the doctor that a liberal rent would be paid and the property restored in good repair. He alleges that, with the expectation that it would then be turned over to the firm on July 1 of that year, an account was made up to that date, including the estimated cost of repairs, which was made by a board of survey, and that this was done on the suggestion of the commanding officer, Gen. Kilby Smith; that, instead of being thus turned over, it was taken possession of by the Quartermaster-General's Department, and not finally released to him until about the middle of October.

"In support of his claim the evidence, without recapitulating it, establishes the following facts:

"The building was used as a medical hospital from the time possession was taken in April to some time in June, 1865, about two months. After that it appears to have passed into the control of the Quartermaster's Department, such control continuing until about the middle of October of the same year.

"The claim for rent from the 15th of April to the 28th of June, amounting to the sum of $500, for damages done to the building and for furniture removed and expenses in estimating damages, amounting to $585, was presented to the proper department, and payment thereof recommended by Col. Wickersham, chief quartermaster of the Department of Alabama, his indorsement upon the papers reciting as follows:

"'I am satisfied that the claimant is justly entitled to a fair compensation for the use by the Government of the Le Vert Hospital, of Mobile, and also that the rate of rent, etc., claimed is reasonable and just.'

"Capt. McIntosh, in referring the claim to Col. Wickersham, strongly recommended that the claim be allowed. Gen. Candy, of the date of November 14, 1866, says 'that this property was excepted from seizure and occupation, on the capture of Mobile, on account of reputed loyalty and kindness to Union prisoners of one of the owners, Mrs. Le Vert, but was subsequently rented by the medical director of my command as a hospital for sick and wounded officers. It was expressly excepted from capture and protected by General Order, No. 20, from the headquarters of the Army, Division of West Mississippi. I recommend that the sum charged as rent be allowed and paid. The sum charged as damages can not be allowed in that shape, but it is recommended that the Quartermaster's Department be directed to restore the property to the condition in which it was found when taken, two-thirds of the expenses to be borne by the Government and the other third by claimants, or that a proportional allowance be paid in lieu of this. The charge made by the board of survey, being in the interest of the claimants, should be borne by them.'

"These papers being laid before the Quartermaster-General, he held that 'Mobile having been a hostile city, captured by our troops from an enemy who did not surrender on terms, but was driven out by force of arms, everything in it was prize of war, as at Atlanta, etc. It does not appear that the military department should order payment of any sum under such circumstances.'

"On the 20th of November, 1866, the claim, as above recommended by the officers, was, by the order of the Secretary of War, referred to the Claims Commission.

"On the 16th of March, 1867, this Commission decided that it appeared from the papers and evidence that this claim comes within the prohibitory clauses of the act of Congress approved July 4, 1864, as amended and construed by the act of the Thirty-ninth Congress, entitled 'An act to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence furnished to the Army of the United States,"' received by the President on the 9th day of February, 1867, and it was therefore rejected.

"As to the value of the use of the premises, it may be conceded that the fair rental, after possession was taken by the Quartermaster's Department, was that fixed by Col. Wickersham in his indorsement, before set forth.

"In addition to the evidence of loyalty above set forth we find the following (here we quote from the statement of one witness, which presents the facts substantially as they are detailed by others):

"Mr. C. F. Moulton, at one time city judge, and now mayor, of Mobile, says: 'I was well acquainted with Dr. Le Vert. I knew him about fifteen years prior to his death. He died during the late war, after a most protracted illness. During his illness I was frequently with him. In sentiment he was a thorough Union man; and with regard to Madam Le Vert, I can say, with the utmost truthfulness, that no lady in America surpassed her in her real love for the Union of these States; and for this devotion none but herself and her God can know the suffering she has endured. On the 12th day of April, 1865, as Gen. Granger entered the city of Mobile at the head of the United States forces, her house was opened for his reception. For several days the chief officers of the Army remained at her house, it being the only instance of hospitality being offered to Union Army officers then in this city. Soon thereafter, when the late Chief Justice Chase and daughter visited Mobile, they were hospitably entertained by Madam Le Vert and daughter. For her Union sentiments and hospi-

tality to Federal officers, especially to Judge Chase, she and daughter have been virtually driven from their home, and suffered the torments of social ostracism and rebel persecutions, which must be experienced to be known.

"'Slander and persecution, because of her faithfulness to the cause of the Union, has done its work. She is driven from the home she once loved and from a society she once adorned. For the past eight years I have had the management of her property here, but owing to the causes stated it is impossible to derive a just compensation for its use. She is now in need, and the payment of her just claim against the Government—just within my own knowledge—would go far to relieve her present condition of want.

"'I have known Dr. Mastin for twenty years. He is a gentleman of fine culture, unobtrusive, and devoting all his time and thought to a profession that he honors. Dr. Mastin deplored the late war. Before, during, and since that memorable struggle he has not, within my knowledge, done any act inconsistent with a Union sentiment. To my personal knowledge he has not, within the past twenty years, taken any other part in politics than to vote, and then for the best man, irrespective of party. He is a just man and good citizen, and I cheerfully state that if all men of his intelligence in the Southern States, for the past eight years, had followed his example, peace and prosperity would here exist; murder and political persecution would not depress and curse this part of our country as it does to-day.'"

In addition to the foregoing, this committee call attention to the following indorsement of Capt. Alexander McIntosh:

OFFICE POST QUARTERMASTER,
Mobile, Ala., March 20, 1866.

Respectfully returned to Col. M. D. Wickersham, chief quartermaster, Department of Alabama.

I have completely investigated the claim for rent for and damages to the Le Vert Hospital, Mobile, Ala., while in possession of the United States authorities, and find that the statements made by Dr. Mastin in regard to the same are substantially correct. I strongly recommend that the claim be allowed.

ALEX. MCINTOSH,
Captain and Assistant Quartermaster.

CHIEF QUARTERMASTER'S OFFICE, DEPARTMENT OF ALABAMA,
Mobile, Ala., April 11, 1866.

Respectfully submitted to the Quartermaster-General. I coincide fully with the forrgoing recommendation of Capt. Alex. McIntosh, captain, assistant quartermaster. From personal information in regard to the facts in this case I am satisfied that the claimant is justly entitled to a fair compensation for the use by the Government of the Le Vert Hospital at Mobile, and also that the rate of rent, etc., claimed is reasonable and just.

M. D. WICKERSHAM,
Colonel, and Chief Quartermaster Department of Alabama.

This committee recommend the payment of six months' rent, at $250 per month, $1,500; damages to building, $510; total, $2,010; and that the bill be amended by striking out the words "three thousand nine hundred and twenty-seven," where they appear in the bill, and the words "two thousand and ten" be inserted; also, by inserting after the word "hospital," where the same occurs in the bill, the word "and," and by striking out the words "and so forth," where the same occur in the bill, and that, as amended, the bill pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 151.

SAMUEL MARSH.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1508.]

The Committee on War Claims to whom was referred the bill (H. R. 1508) for the relief of Samuel Marsh, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

HOUSE REPORT.

The Committee on War Claims, to whom was referred the bill (H. R. 6000) for the relief of Samuel Marsh, have had the same under consideration and beg leave to submit the following report:

The bill provides for the payment to Samuel Marsh, of the city of Norfolk, in the State of Virginia, of the sum of $2,575.16, for a large quantity of timber, boards, and bricks taken from him by the Quartermaster's Department of the U. S. Army and appropriated to the use of the said department in the months of August, October, and November, 1862, and the month of February, 1863.

This claim having been presented to Congress for payment, was, on the 3d day of February, 1888, transmitted by the Committee on War Claims to the Court of Claims for an investigation and determination of facts under the provisions of the act approved March 3, 1883, commonly known as the Bowman act. The Court of Claims being of opinion that said claim was barred by section 1069 of the Revised Statutes and the second section of the act of March 3, 1873, dismissed it for want of jurisdiction under the provisions of the third section of the act of March 3, 1883. It thus appears that the Court of Claims made no investigation and determination of the facts, so far as the merits of said claim are concerned, and declined to take jurisdiction thereof.

Upon the evidence submitted to your committee they find the facts to be as follows:

(1) That the said Samuel Marsh is a citizen of the State of Virginia, and resides in the city of Norfolk.

(2) That the said Samuel Marsh has at all times borne true allegiance to the Government of the United States, and as a loyal citizen thereof has not in any way aided, abetted, or given encouragement to rebellion against said Government.

(3) That in the years 1862 and 1863 he was the sole owner of the property mentioned and described in the certificate of Edwin Ludlow, captain and assistant quartermaster, hereto appended as a part of this report.

(4) That while he was so possessed of the said property, to wit, in the months of August, October, November, and December, 1862, and in February, 1863, the same was taken from him by the said Capt. Ludlow, assistant quartermaster, and appropriated to the use of the Quartermaster's Department of the U. S. Army.

(5) That according to the prices usually paid for such material at the date of said appropriation by the quartermaster's department, it was worth the sum charged for it, to wit, $2,575.16.

(6) That the said Samuel Marsh has never been paid for the said property so taken from him and appropriated by the Quartermaster's Department of the U. S. Army.

(7) That after the termination of the war the said Samuel Marsh placed the said claim in the hands of an agent for presentation to the proper department of the Government, and that the said agent failed and neglected to present the same for payment until it was barred by the statute of limitations.

In view of the foregoing facts, your committee, believing that the said claim is justly due and should be paid, report back the bill and recommend its passage.

OFFICE ASSISTANT QUARTERMASTER,
Norfolk, Va., August 15, 1863.

This is to certify that the articles herein mentioned have been received at the dates specified from Mr. Samuel Marsh, of the city of Norfolk, by and for the use of the Quartermaster's Department, U. S. Army, and are to be paid for at the close of the present war on proof of ownership and loyalty:

1862.
Aug. 2. 1,000 feet 1-inch white pine board.
6. 3,482 feet 1-inch white pine board.
1,163 feet P. pine boards.
640 feet, 2 by 4, rail.
7. 512 feet white pine boards.
1,000 feet 6-inch dressed and T-grooved boards.
13. 1,000 feet 1¼ P. pine boards.
15. 1,000 feet clear W. P. boards.
16. 1,000 feet 6-inch dressed and T-grooved boards.
26. 800 feet 6-inch dressed and T-grooved boards.
28. 500 feet 6-inch dressed and T-grooved boards.
Oct. 25. 2,372 feet clear white pine boards.
561 feet 6-inch dressed and T-grooved boards.
28. 3,193 feet clear white pine boards.

1862.
Nov. 14. 1,011 feet clear white pine boards.
19. 1,073 feet clear white pine boards.
504 feet 6-inch dressed pine boards.
25. 1,000 feet 6-inch dressed and T-grooved boards.
1,000 feet 1-inch clear white pine boards.
Dec. 16. 2,500 feet 6-inch clear white pine boards.
500 feet 6-inch dressed and T-grooved boards.
254 5eet 1-inch cherry boards.
26. 2,900 feet Philadelphia press brick.
1863.
Feb. 7. 3,000 feet 1¼-inch clear white pine.
12. 3,070 feet 1¼-inch dressed white pine.
1,275 feet ⅞-inch clear white pine.
1,000 feet 6-inch dressed white pine.
8,234 feet 1¼ and 1½ inch clear white pine.
710 feet cherry and walnut.

EDWIN LUDLOW,
Captain and Assistant Quartermaster.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 152.

JANE LINN.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2281.]

The Committee on War Claims, to whom was referred the bill (H. R. 2281) for the relief of Miss Jane Linn, report as follows:

The claim is for one horse taken from the said claimant by the Army of the United States during the late war. Claim stated at $150.

The proof filed in support of the bill shows that claimant's horse was seized by Maj. Wiley Waller, commanding Fifteenth Kentucky Cavalry, he being at the time of the seizure of said horse with and in command of his said regiment. The proof in support of the bill further shows that at the time of the seizure of said horse by the said Maj. Waller the said Maj. Waller then and there mounted one of his soldiers upon said horse, and that no receipt or voucher of any kind was given claimant for said horse.

The proof filed in support of the bill shows conclusively that said horse belonged to said claimant in her own right, and that it was at the time well worth the amount claimed, viz, $150, and the said claimant was loyal to the United States throughout the late war. Therefore your committee report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 153.

MARCUS L. BROADWELL.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 869.]

The Committee on War Claims, to whom was referred the claim of the estate of Marcus L. Broadwell, report as follows:

Marcus L. Broadwell, of Harrison County, Ky., during the last war served temporarily as an aid to John J. Landram, who, as lieutenant-colonel, of the Eighteenth Kentucky Volunteers, commanded the United States forces at Cynthiana, Ky., on July 17, 1862. While in said service he necessarily used two horses, with the equipments, for riding in the discharge of his duties. This bill is to compensate for the loss of the horses while in said service to the amount of $395.

The claim has been diligently prosecuted to recover payment. Was presented to the officers of the Treasury Department, when the Third Auditor decided he could not take jurisdiction of it under the act of March 3, 1849, which provided for compensating officers and soldiers for the loss and value of their horses and equipments who were mustered into the service of the United States, this claimant not having been so mustered. Whereupon relief was sought by special act of Congress, and the Committee on War Claims of the Forty-eighth Congress referred the bill to the Court of Claims for investigation under the Bowman act. That court found the claimant loyal during the war of the rebellion, and, after testimony had been taken by order of the court in the usual manner, decided that the court could not take jurisdiction over the case under the act of March 3, 1883, because the claim had not been presented under an existing law (being decided in the Department it did not come under the act under which it was presented).

Your committee have examined the depositions taken by order of the Court of Claims, when the United States was represented for cross-examination, and find that the claim is proven by the testimony of John J. Landram, under whom Broadwell served, and John Bruce and Erasmus D. Rowland, who participated in the same service. The latter testify as neighbors as to the use and value of one horse (brown horse Dan), valued at $200, and equipments valued at $30, and as eyewitnesses to the capture thereof by the enemy under command of Gen. Morgan. The wife of Marcus L. Broadwell testifies that the bay mare which was used by Broadwell in the service, worth $200, was taken by W. C. P. Breckinridge, a general in the Confederate army.

If the act of March 4, 1849, had made provision for a case like this there would have been no necessity for making application to Congress for relief. It appears to your committee that the demands of justice require that the relief asked should be granted. A precedent has been established by the passage of the act of May 19, 1874, granting pay to Rev. George Morrison for his horse lost under exactly similar circumstances.

Your committee therefore recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 154.

MERRITT ROSE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2300.]

The Committee on War Claims, to whom was referred the bill (H. R. 2300) for the relief of Merritt Rose, report as follows:

The claim is for the value of a horse taken from the claimant in Trigg County, Ky., by the Army of the United States, during the late war. Claim stated at $150.

The proof shows that in October, 1863, United States troops took from the claimant one horse for the use of the Army. The taking of the property and the loyalty of the claimant is fully established.

Your committee therefore report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 155.

W. H. VAUGHAN.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2318.]

The Committee on War Claims, to whom was referred the bill (H. R. 2318) for the relief of W. H. Vaughan, report as follows:

The claim is for horses and mules taken from the claimant by the Army of the United States during the late war. Claim stated at $900.

The claim was filed in the Quartermaster-General's Office, March 10, 1887. No action was taken in the case, as the third section of the act of March 3, 1879, provides that all claims not presented and filed under the act of July 4, 1864, prior to January 1, 1880, shall be forever barred.

It appears from the proof submitted that in April, 1863, troops from the command of Gen. Paine, U. S. Army, took from the claimant four mules and two horses for the use of the Army. No receipts or vouchers were given for them for the reason that the Army was moving at the time.

Your committee are satisfied that the claimant was a loyal citizen and that the property was taken and used by the Army, and that the mules and horses were worth $900.

Your committee therefore report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 156.

JAMES A. GREGORY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2175.]

The Committee on War Claims, to whom was referred the bill (H. R. 2175) for the relief of the estate of James A. Gregory, deceased, report as follows:

That this is a claim for ten mules taken from the claimant by the Army of the United States during the late war. Claim stated at $1,500.

Claimant filed his claim in the office of the Quartermaster-General, November 7, 1865, for adjudication under the provisions of the act of July 4, 1864. The Quartermaster-General rejected the claim for the want of jurisdiction. Claimant resided in the State of Kentucky, and the property was taken from his agent in the State of Mississippi.

The proof filed in support of this claim shows that the decedent was a loyal man, and that ten mules of the value of $1,500 were taken from him by the Army of the United States during the late war.

Your committee therefore report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 157.

THOMAS V. STIRMAN, DECEASED.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 854.]

The Committee on War Claims, to whom was referred the bill (H. R. 854) for the relief of the estate of Thomas V. Stirman, deceased, report as follows:

Thomas V. Stirman, during the war of the rebellion, was the owner of a livery stable in Cynthiana, Harrison County, Ky., and on July 16, 1862, eleven of his horses, together with a set of double harness, eight bridles, and four saddles were taken from his stable for the use of the troops under the command of William O. Smith, major Seventh Kentucky Cavalry, and appropriated to the use of the U. S. Army.

The evidence submitted before the Third Auditor of the Treasury and the Court of Claims proves that said Maj. Smith was in camp at Cynthiana, Ky., recruiting his regiment from June 15, 1862, and that on the 16th day of July following he had 75 men not mounted; that the Confederate forces under Gen. Morgan were raiding throughout the State and might make their appearance at that point, and hence the Federal cavalry troops should all be mounted to resist him, whereupon the horses in the livery stable of Thomas V. Stirman were impressed into service, and that on the 17th day of July a conflict was had between these forces with Gen. Morgan's command at Cynthiana, resulting in the capture of the Federal forces and their horses and equipments.

The claimant was diligent in seeking payment for his property, as will appear in the report of his case from the Court of Claims (Mis. Doc. 39, Fifty-first Congress, first session), and which is embraced in the report of this committee.

[House Mis. Doc. No. 39, Fifty-first Congress, first session.]

Letter from the assistant clerk of the Court of Claims, transmitting findings and opinion of the Court of Claims in the case of John W. Kimbrough, administrator of Thomas V. Stirman, vs. the United States.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 12, 1889.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings and opinions of the court in the aforesaid cause, which case was referred to this court by the Commitee on War Claims, House of Representatives, under the act of March 3, 1883.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. THOS. B. REED,
Speaker of the House of Representatives.

STATEMENT OF CASE.

The claim in the above-entitled case for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion was transmitted to the court by the Committee on War Claims of the House of Representatives on the 18th day of February, 1885.

T. W. Tallmadge, esq., appeared for claimant, and the Attorney-General, by Lewis Cochran and W. J. Rannells, his assistants, and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court, on the 26th day of April, 1886, found that the person alleged to have furnished the supplies, or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war.

The case was brought to a hearing on its merits on the 19th day of November, 1889.

The claimant in his petition makes the following allegations:

"That the United States forces, by proper authority, July 17, 1862, took from said Thomas V. Stirman certain quartermaster stores, consisting of horses, harness, saddles, and bridles, which he was using at the time in his livery stable, the value of which amounted to the sum of $978, and appropriated the same to the use of the U. S. Army at Cynthiana, Ky., and were in detail as follows: Eleven head of horses, which were of the reasonable value of $910; one double set of harness, valued at $20; four saddles, valued at $40; eight bridles, valued at $8.

"Your petitioner further states that the claim of said deceased for compensation for said stores and supplies was presented to the Quartermaster-General of the United States, who referred the claim for settlement to the Third Auditor of the Treasury under the act of March 3, 1849, but that officer disallowed the claim on the ground he had no jurisdiction to examine the claim of a citizen and not a soldier under said act."

Upon the trial the counsel for the defendant raised the question of jurisdiction under section 3 of the Bowman act, and asked that the case might be dismissed.

The court, after considering the briefs and argument of counsel on both sides upon the question of jurisdiction, find, from the evidence, the facts bearing upon the question to be as follows:

"This claim was filed with the Quartermaster-General October 30, 1863, by C. W. Bennett, attorney for the claimant; November 5, 1863, it was returned to Mr. Bennett without action.

"Thereafter, on November 10, 1863, it was filed with the Third Auditor of the Treasury by said Bennett. The Auditor examined the case and decided that it did not come 'within the provisions of the act of March 3, 1849, as it does not appear that said property was seized by the order of any Army officer or agent of the United States. The men who made the seizure were not impressing, but pillaging, and are liable to be punished therefor.'"

Of this decision the attorney for the claimant (Mr. Bennett) was informed by letter dated December 28, 1864.

The claim was never again presented to the Quartermaster-General.

OPINION.

SCOFIELD, J., delivered the opinion of the court:

This claim was transmitted to the Court of Claims February 18, 1885, under the provisions of the act of March 3, 1883, known as the Bowman act (22 Stat. L., 485), by the Committee on War Claims of the House of Representatives.

By the first section of that act any committee of the Senate or House is authorized to transmit to this court any claim pending before it; but, by the third section, the court is forbidden to take jurisdiction of any claim "which is now (March 3, 1883) barred by virtue of the provisions of any law of the United States."

In this way it becomes the duty of the court to determine whether any case thus referred was, at the date of the act, barred by any law of the United States.

By section 2 of the act of July 4, 1864 (13 Stat., 381), the Quartermaster-General was authorized to receive and examine claims of this description, and if convinced that they were just, the claimants loyal, and the stores taken for and used by the Army, to report them to the Third Auditor for settlement.

By the act of March 3, 1879 (1 Sup. to Rev. Stat., 481, and 20 Stat. L., 650), it is provided:

"That all claims not presented and filed under said act (referring to act of July 4, 1864) and the acts amendatory thereof, prior to the 1st day of January, 1880, shall be forever barred."

This claim was presented to the Quartermaster-General by C. W. Bennett, attorney

for the claimant, October 30, 1863. On November 5, 1863, it was returned to Mr. Bennett without action, and was never again filed with that officer.

November 10, 1863, Mr. Bennett filed the claim with the Third Auditor. That officer examined it, and on December 28, 1864, informed Mr. Bennett, by letter, that the claim did not come "within the provisions of the act of March 3, 1849, as it does not appear that said property was seized by the order of any Army officer or agent of the United States. The men who made the seizure were not impressing, but pillaging, and are liable to be punished therefor."

These facts do not, in the opinion of the court, show that the claim was presented and filed with the Quartermaster-General under the act of July 4, 1864. When it was presented, in 1863, that officer had no jurisdiction, and so returned it to the claimant's attorney. After the act of 1864 the claimant had more than fifteen years in which to present his claim. Not having done so within that time, his claim is "forever barred," and the court must dismiss his petition.

A true copy.

Test, this 12th day of December, A. D. 1889.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[John W. Kimbrough, administrator *de bonis non* of the estate of Thomas V. Stirman, deceased, *vs.* The United States. No. 310, Congressional.]

PETITION.—*Filed April 16, 1885, J. R.*

To the honorable the Court of Claims of the United States:

Your petitioner, John W. Kimbrough, administrator *de bonis non* of the estate of Thomas V. Stirman, deceased, respectfully represents:

That he is a citizen of the United States, residing in Harrison County, State of Kentucky, and by the county court of said county he has been appointed administrator *de bonis non* of the estate of Thomas V. Stirman, deceased, who also resided in said county until his death, which occurred on or about ——, 1863, and who resided in said county during the late war of the rebellion, during which he did not give any aid or comfort to the enemies of the United States, but was throughout that war loyal to the Government of the United States.

That the United States forces by proper authority, July 17, 1862, took from said Thomas V. Stirman certain quartermaster stores, consisting of horses, harness, saddles, and bridles, which he was using at the time in his livery stable, the value of which amounted to the sum of $978, and appropriated the same to the use of the U. S. Army at Cynthiana, Ky., and were in detail as follows: Eleven head of horses, which were of the reasonable value of $910; one double set of harness, valued at $20; four saddles, valued at $40; eight bridles, valued at $8.

Your petitioner further states that the claim of said deceased for compensation for said stores and supplies was presented to the Quartermaster-General of the United States, who referred the claim for settlement to the Third Auditor of the Treasury, under the act of March 3, 1849, but that officer disallowed the claim on the ground he had no jurisdiction to examine the claim of a citizen and not a soldier under said act.

Your petitioner has therefore petitioned the Congress of the United States for relief, and on or about the 18th day of February, 1885, said petition was, by the Committee on War Claims of the House of Representatives referred to the honorable Court of Claims under section 1 of an act of Congress approved March 3, 1883, entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government."

Your petitioner further states that this claim has not been assigned or transferred, and he is the properly authorized party for the presentation thereof; and that it is correct and just, and no part of the same has been paid the deceased or his legal representative, or any other person for him; that he did not give any aid or comfort to the late rebellion, but was throughout that war loyal to the Government of the United States.

Wherefore your petitioner claims the sum of $978, and prays for a finding of the facts before set forth and such other facts as may be shown by the evidence, and the same to be reported to the House of Representatives of the United States or to said Committee on War Claims, as provided under said act of March 3, 1883.

JNO. W. KIMBROUGH,
Administrator of Thomas V. Stirman, deceased.

Personally appeared before me John W. Kimbrough, who, being duly sworn, says that the statements contained in the foregoing petition are true to the best of his knowledge, information, and belief. The above erasure and "John W. Kimbrough" was interlined before signing.

Subscribed and sworn to before me this 10th day of April, 1885.

[SEAL.] ORIE LEBUS,
Notary Public, Harrison County, Ky.

The court found the original claimant loyal throughout the war by their decision made preliminary to the trial of the merits of the case, and then found they did not have jurisdiction under what is generally called the Bowman act. Your committee have investigated the evidence which was taken by order of said court, and when the United States was represented by an attorney to cross-examine the witnesses, and are of the opinion it is proven the property as claimed was taken by the authority of and for the use of the United States, which is shown by the testimony of several Federal officers and men in the command; and the claim was approved by Maj. Smith, the commanding officer.

We find a precedent for payment of a claim to administrator of Richard Heater, of Loudoun County, Va., for property appropriated under similar circumstances (Forty-fifth Congress, second session, approved May 11, 1878).

Your committee therefore recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 158.

ALVIS BESHEARS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3031.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3031) to correct the military record of Alvis Beshears, beg leave to report:

They find the said Alvis Beshears was never mustered into the service of the United States, but that one "Alvers Bershee," Company H, Seventh Regiment East Tennessee Volunteers, was admitted to Asylum General Hospital, at Knoxville, Tenn., on January 16, 1865, for treatment for measles, and died in that hospital on January 20, 1865, but there is no record of his enlistment or muster into service.

Nathaniel Irvin, late second lieutenant of Company I, Seventh Tennessee Mounted Infantry, swears that he—

> Enlisted Alvis Beshears at Clinton, Tenn., on or about October 1, 1864; that the usual oath was administered to him at enlistment; that Beshears at once drew clothing and performed military duty until about December 10, 1864, when he took sick with measles, and was sent to hospital at Knoxville, Tenn., where he died about January 20, 1865; that Beshears was not mustered for the reason that he was sick in hospital at the time his company was mustered.

The evidence shows clearly that said Alvis Beshears did enter and serve in Company F, Seventh Tennessee Mounted Infantry; that he contracted the disease he died of in the line of his duty prior to the muster of his company into the service of the United States, March 7, 1865.

Your committee are of the opinion that, owing to the lack of knowledge on the part of his company officers they failed to carry his name on the roll of his company, as they should have done.

The record of the Treasury Department shows that his service (though he was never mustered) was recognized by the Second Auditor by the fact that he paid the mother of the said Beshears the amount of his pay from October 1, 1864, to January 19, 1865.

In view of all these facts in this case your committee recommend that the bill do pass.

WAR DEPARTMENT,
Washington City, March 17, 1888.

SIR: In reply to your request of the 20th ultimo for information upon House bill 2948, Fiftieth Congress, first session, to provide for the amendment of the military record of Alvis Beshears, late of Company F, Seventh Tennessee Mounted Infantry, I have

the honor to inclose a report of the 15th instant from the Adjutant-General of the Army, which, it is believed, affords the information desired.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brig. Gen., Chief of Ordnance, and Acting Secretary of War.

Hon. R. W. TOWNSHEND,
Chairman Committee on Military Affairs, House of Representatives.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 15, 1888.

SIR: I have the honor to return House bill 2948, Fiftieth Congress, first session, authorizing the amendment of the records of this Department to show that Alvis Beshears was duly mustered into the United States service as a private in Company F, Seventh Tennessee Mounted Infantry, from October 1, 1864, referred by the chairman of the House Committee on Military Affairs, and to report that there is no record of the enrollment or muster into the United States service of the person named in the bill, but that the record shows that one Alvers Bersher, Company H, Seventh East Tennessee Volunteers, was admitted to Asylum General Hospital, Knoxville, Tenn., on January 16, 1865, for treatment for measles, and that he died in that hospital of that disease on January 20, 1865.

As the name of Alvers Bersher is not borne on records of Company H, Seventh East Tennessee Volunteers, the preceding record has been accepted as referring to Alvis Beshears, who is alleged to have served in Company F, Seventh Tennessee Mounted Infantry, and the records of this office have been amended to show the facts of his admission to and death in hospital, qualified by the statement that there is no record of his enlistment or muster into service.

This action was based upon the following testimony, presented in 1870:

Melinda Beshears, mother of Alvis Beshears, swears that said Alvis was enlisted for the Seventh Tennessee Mounted Infantry by Lieut. Irwin on October 1, 1864, and died of measles on January 20, 1865, in hospital at Knoxville, Tenn.

Nathaniel Irwin, late second lieutenant Company I, Seventh Tennessee Mounted Infantry, swears that he enlisted Alvis Beshears at Clinton, Tenn., on o rabout October 1, 1864, and that the usual oath was administered to him at enlistment; that Beshears at once went into camp, drew clothing, and performed military duty until about the 1st or 10th December, 1864, when he took sick with measles and was sent to hospital at Knoxville, Tenn., where he died about January 20, 1865; that Beshears was not mustered for the reason that he was in hospital when his company was mustered in.

With respect to the testimony of Mr. Irwin, it is proper to add that the record shows that he himself was enrolled on November 8, 1864, as a private of Company I, of this regiment, and that he did not become an officer until May 9, 1865.

Company F of this regiment, to which it is alleged Beshears belonged, was mustered into the United States service March 7, 1865, at Nashville, Tenn.

I am, sir, very respectfully, your obedient servant,

R. C. DRUM,
Adjutant-General.

The SECRETARY OF WAR.

Malinda Bershers applied for pension as the dependent mother of Alvis Bershers April 15, 1869, alleging that her son enlisted in Company F, Seventh Tennessee Mounted Infantry, in October, 1864, and died of measles, contracted in the service, on the 20th of January, 1865. She alleged and proved that her son, the soldier, died unmarried; that he aided and contributed towards her support by his labor prior to his enlistment; that her husband abandoned her in 1839, and has never been heard from since that time; that the claimant became totally blind in 1870, and suffered from weak eyes and physical infirmities prior to that time; that she has never owned any property from which an income could be realized, and has been an object of charity. These facts are substantiated by the sworn testimony of six disinterested witnesses. The clerk of Campbell County, Tenn. (the county in which the claimant appears to have lived since the date of the soldier's death), certifies over the seal of his office that the claimant has never had any property assessed against her; that she has no husband, no legal support, is blind, and a pauper for many years, supported by the county.

Her claim for pension was rejected by the Pension Office, in 1876, on the ground that there was no record in the War Department of the soldier's enlistment or mus-

ter into the service of the United States. This action has been uniformly adhered to since that time.

Nathaniel Irwin, as second lieutenant of the soldier's company, testified in 1870 that he enlisted the soldier about the 1st of October, 1864, and that the usual oath was administered to him; that he at once entered camp, drew clothing, and commenced to perform the military duties of a soldier; that he continued on active duty until some time in December, 1864, when the soldier was taken with the measles and was sent to the hospital, where he died about the 25th of January, 1865.

The records of the Surgeon-General's Office show that this soldier entered the Asylum General Hospital at Knoxville, Tenn., on January 16, 1865, from the field, and died in that hospital on the 20th of that month of measles.

The records of the Adjutant-General only show the soldier to have been a member of Company F, Seventh Tennessee Mounted Infantry, having no record of his enlistment or muster into the service.

The records of the Treasury Department show that the mother of this soldier was allowed and paid by the Second Auditor for the services of the soldier from the 1st of October, 1864, to January 19, 1865.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 159.

AMENDING THE INTERNAL-REVENUE LAWS.

FEBRUARY 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. BYNUM, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 566.]

The Committee on the Judiciary, to whom was referred House bill No. 566, entitled "An act to amend the internal-revenue laws, and for other purposes," having had the same under consideration, report it back with the recommendation that it be amended as follows:

Amend section 3 by striking out in line 5 the words "United States." Also amend section 5 by inserting after the words "criminal case," in line 3, the following: "Arising under the internal-revenue laws," and when so amended that the same be passed.

A similar bill was reported favorably by the Committee on the Judiciary in the last Congress. The report made by said committee contains a full explanation of the provisions of the bill, and is made a part of this report, viz:

Section 1 abolishes what are known as *minimum* punishments and gives a discretion to the courts to impose any punishment, not exceeding the *maximum* limit authorized by the statute, whether such punishment be less or greater than the *minimum* punishment mentioned in the law. This section is intended to discourage frivolous and petty prosecutions. There are many cases where the judge might properly impose a less punishment than the *minimum* required by the statute if he possessed the power.

The minimum punishments range from a fine of $100 and thirty days' imprisonment to a fine of $1,000 and one year's imprisonment. There are many technical and frivolous cases where the minimum punishments should not be imposed. The Federal judges seem to be a unit in favor of this section.

Section 2 directs that no warrant shall be issued, in internal-revenue cases, upon an affidavit making charges *upon information and belief*, unless made by certain official persons. In every other case a sworn complaint is required alleging the facts to be within the personal knowledge of affiant.

The section is intended also to limit the liability of the United States in the matter of the fees of marshals, clerks, commissioners, and other officers. Attorney-General Miller, in his report to the present Congress, makes the following suggestions:

"From a number of judges, as well as from other sources, comes the information that very great abuses arise out of the action of commissioners of the circuit courts in the amount of fees they make and charge for themselves, as well as those which they assist the marshals, and, in some cases, district attorneys, in making. Whether it is practicable to eliminate entirely the excessive charges in the enormous bills of expense in proceedings had before these commissioners is perhaps doubtful; but certainly Congress, by enacting a clear and definite fee bill for such proceedings, and by providing that no prosecutions shall be commenced except in an emergency shown in an affidavit, until the district attorney shall have approved of the commencement of such proceedings, and by prescribing severe punishment for any violations of the laws so enacted, can do much to repress these abuses and relieve the Treasury from illegal exactions."

The section as formulated does not go quite as far as the Attorney-General recommends.

Section 3 requires a warrant issued by a commissioner or other United States judicial officer, to be returnable before some such judicial officer residing in the county of arrest, or if there be no such officer in that county, before some such United States judicial officer residing in another county nearest to the place of arrest. This is a reform that has long been needed. The late Attorney-General Garland, in his last two annual reports, earnestly recommended legislation upon the subject. He said:

"Commissioners of circuit courts generally issue warrants that are returnable to themselves alone, regardless of the distance and cost chnsequent upon the order. They have the right to do this, yet experience shows that the right is open to reform. The right to issue a warrant might be left unrestricted in all respects, leaving the commissioner discretion to act upon reasonable grounds of suspicion and belief and on a charge made upon reasonable cause of the commission of a felony, but the commissioner before whom the warrant should be returned might be another, and perhaps ought to be another, if the offense is committed without the county of his residence. * * * The Department can not direct the commissioner how to act, as that officer is subject to the court alone. It is, therefore, a proper subject for legislation to remedy the abuse."

Section 4 gives full authority to the circuit courts and to the district courts exercising circuit court powers, with the approval of the Attorney-General, to appoint as many commissioners as may be needed in the different localities of each judicial district, and also authorizes the Attorney-General to remove any of said commissioners *ad libitum* and summarily. It is the practice of some of the judges to revoke, without notice, the commissions of these officers when the public interest requires it. Other judges doubt their authority to do this summarily and without trial. The purpose of this section is to give the Attorney-General a veto upon the appointment of such officials as he thinks undeserving and to confer upon him the power to remove them summarily. Under the present law the circuit courts have the sole power of appointing United States commissioners, and some of the judges hold that these commissioners, being judicial officers, can only be removed by impeachment.

A letter from the First Auditor of the Treasury, dated March 10, 1890, informs the committee that "numerous cases can be cited where the discovery of fraudulent practices on the part of a United States commissioner has had no more serious result than the suspension of so much of his account as appeard, upon the face of the papers, to be manifestly wrong, when such discovery should and would have been followed by prompt dismissal had the Attorney-General been given the power to so act." In a letter dated April 3, 1890, the Attorney-General himself also says:

"Section 4 is right. I can not help thinking, however, it would be an improvement if the commissioners could in some way be made amenable and brought under the control of the Attorney-General. Many of the worst abuses existing in the administration of justice under Federal laws originate with and are fostered by the commissioners. They are only removable by the circuit courts, and judges of these courts naturally give but little attention to such matters, and the result is the commissioners are practically without responsibility."

Section 5 empowers the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to compromise or discontinue any civil or criminal case upon such terms as he may deem reasonable.

The amendment to section 3, recommended by the committee, strikes out of said section the words "United States," the effect of which is to leave warrants to be issued by the judicial officers named in section 1014 of the Revised Statutes, without qualification.

The amendment to section 5 limits the power of the commissioner, with the approval of the Secretary of the Treasury, to compromise civil and discontinue criminal cases arising only under the internal-revenue laws. Such, no doubt, was the intention of the author of the bill, but the language used was sufficiently broad to embrace all civil and criminal cases arising under any department or for the violation of any statute.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 160.

PRESIDENTIAL SUCCESSION.

FEBRUARY 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. POWERS, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 3927.]

The Committee on the Judiciary, to whom was referred House bill No. 3927, entitled "A bill to amend An act to provide for the performance of the duties of the office of President in case of the removal, death, resignation, or inability both of the President and Vice-President, approved January 19, 1886," respectfully report that they have considered the same and are of opinion that the same ought to pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 161.

KLAMATH RIVER RESERVATION.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MCKENNA, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 38.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 38) to provide for the disposition and sale of lands known as the Klamath River Reservation, respectfully report as follows:

The land referred to in the bill under consideration was set apart as an Indian reservation by an Executive order dated November 16, 1855. It has not, in fact, been used by the Government as a reservation since the winter of 1861-'62.

After this four reservations were set apart in California, as directed by the act of April 8, 1864. (13 U. S. Stat., pp. 39, 40.)

And no portion of the Klamath River Reservation being included within the limits of either of the four reservations so set apart, this reservation, under the provisions of the act of Congress just referred to, became abandoned in law, as it has been in fact, since the winter of 1861-'62, and thereafter its territory became subject to sale in the mode prescribed by section 3 of said act.

This has been so decided by the United States district court of California, in an elaborate opinion, reported in 35 Federal Reporter, pp. 403 to 407, and also by the United States circuit court for the same State on appeal. (See 38 Federal Reporter, p. 400.)

As this land does not constitute an Indian reservation, and has not been used as such for about twenty-eight years, there does not appear to be any reasonable objection to the passage of the present bill, the only object and effect of which will be to prescribe a mode for its disposition and sale different from that fixed by act of April 8, 1864.

Instead of having the land surveyed into lots of suitable size and appraised at their cash value, and then offered for sale at public outcry, as directed by section 3 of the act before cited, this bill simply proposes that the land formerly set apart as a reservation, but now abandoned as above stated, shall be disposed of, as are other lands of the same class or quality, under the general laws of the United States, giving to those who have settled upon them in good faith the prior right to enter that portion upon which settlement has been made.

The few Indians now on this tract, variously estimated to be from fifty to one hundred in number, occupy small villages at or near the mouth of Klamath River. They are semicivilized, disinclined to labor, and have no conception of land values or desire to cultivate the soil. If it should be thought wise to allot land in severalty to Indians in such a stage of civilization, still this tract is of a character which ought

not to be devoted to such a purpose. It would be entirely useless to them, being alone valuable for lumbering, for mining, and stock-raising, by far the greater part being heavily timbered, mountainous, and broken, as shown by the field notes of the survey of said land.

In addition to this, the Hoopa Valley Reservation is only about 20 miles east of the eastern boundary of this tract. If it should be deemed advisable to hereafter provide for these Klamath Indians by the Government in the way of allotting to them land, this reservation in size and productiveness of soil will be found sufficient and better adapted for such purpose.

These Indians have not, since the abandonment of this reservation, been in any manner cared for, aided, or instructed in the ways of civilization by the Government. This duty the Government may hereafter desire to perform, and to this end, and as a matter of justice to these Indians and their children, we think the proceeds to be derived from the sale of these lands should constitute a fund to be used for their removal, maintenance, and education, when in the judgment of the Secretary of the Interior their interests require an expenditure for such purpose.

We recommend that the bill be amended by striking out the word "and" after the word "removal" on line 40, page 3, and inserting the word "or," and, as so amended, we recommend the passage of the bill.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 162.

MINES AND MINING IN THE INDIAN TERRITORY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MANSUR, from the Committee on the Territories, submitted the following

REPORT:

[To accompany H. R. 249.]

Your Committee on the Territories to whom was referred H. R. 249, a bill to regulate mines and mining in the Indian Territory, state that they have had the same under careful consideration, and now report said bill with an amendatory section back to the House with the recommendation that it do pass, as amended.

The bill as introduced was that—

The general laws of the State of Missouri in force at the close of the thirty-fifth general assembly of the State of Missouri, as published anno Domini eighteen hundred and eighty-nine in the volume known as the "Revised Statutes of Missouri," which are not locally inapplicable, or in conflict with any law of Congress, entitled "Mines and mining; safety and inspection of mines," chapter one hundred and fifteen, are hereby extended over and put in force in the Indian Territory until Congress shall otherwise provide.

The amendment is by an added section, which reads as follows:

SEC. 2. That wherever in said laws of Missouri the word "State" or the words "State of Missouri" are used, the word "Territory" or the words "Indian Territory" may be substituted therefor; and where the word "governor" or the words "court" or "circuit court" are used, the words "Secretary of the Interior" or "the court of the United States of the judicial district having jurisdiction," may be respectively substituted. Where the word "county" is used it shall be construed to embrace the territory within the limits of a judicial division in said Indian Territory. The inspector of mines shall have his office with the clerk of the United States court at South McAlister, and shall make his annual report to the Secretary of the Interior. All prosecutions and actions of a public nature shall run in the name of the United States.

Your committee find that this form of drawing a bill has among other precedents for it as follows, to wit: In the law creating the Territory of Oklahoma this was the exact form in which the laws of Nebraska, as found in their revised code, was made law and operative in the Territory of Oklahoma. It is also the language employed to make the laws of the State of Arkansas operative in the Indian Territory.

There are no adequate laws in force in regard to coal mines and mining, their safety and inspection, in the Indian Territory. In the interest of life and limb, as well as humanity in general, there is imperative need of a code of laws upon this subject.

The petitions of 1,213 miners of the Indian Territory, asking that the mining code of Missouri be made operative in that Territory, have been received and referred to your Committee on the Territories for their consideration.

With the advent of railroads in the Indian Territory came a great

necessity for coal. It was discovered of fine quality and immense quantities in the Territory; notably in the Choctaw Nation at and around McAlister, Krebs, and other points on the line of the Missouri, Kansas and Texas Railway. In the mines at the places named the coal is superior and easily worked. The veins or strata are of such thickness that a cube of 6 feet was taken from these mines, and placed on exhibit at the great Exposition at Denison, Tex., in 1889.

The presence of coal in such quantities, and of such quality, has invoked large capital, and much labor for their development, until now there are over 3,000 miners at work in the coal mines of the Territory. Under such conditions, and wholly without adequate laws for their protection and safety, the lot of the miner has been dangerous indeed. Failing to secure such attention and safeguards as their life and safety demanded from their employers, the miners of the Territory in October last met at the various mines, selected delegates to meet in convention, which, when assembled, represented, as your committee are informed, full 3,000 miners. The convention, after discussion, many of them being from the coal mines of the State of Missouri, and familiar with the mining code of that State, voted to adopt them, and to ask Congress to put them in force in the Indian Territory, and a petition to that effect, containing the names of —— miners, has been sent to Congress and is now in its possession.

The result of their action was the introduction of this bill into Congress, which, besides having the sanction of the miners of the territory, has the indorsement of Hon. T. V. Powderly, master workman of the Knights of Labor, whose influence the miners invoked to aid in securing the passage of these desired laws. The attention of the House is called to an account clipped from the columns of the Republic, of a very recent mine horror at Krebs in the Choctaw Nation, occurring last month and since the introduction of this bill into the House, where over 50 miners were killed outright, 67 more or less injured, and 14 are missing. Your committee believe this disaster was wholly the result of carelessness arising from the want of rigid laws, compelling the inspection and regulation of coal mines, after the manner provided for in the Missouri code.

In the newspaper report of the disaster printed as an appendix to this report, it is stated—

> Thomas Fleming, a mining expert, and for eight years a superintendent of the mine, but now general superintendent of the Southwestern Coal and Improvement Company, was interviewed this morning in regard to this explosion. He said that the whole blame should be placed upon the shot firers, who fired the blast too soon. A windy shot caused the catastrophe. The blast was overcharged. It should have been fired at 5:30 o'clock, after the miners had left the mines, in which case the explosion would have occurred, but only 5 or 6 men would have been killed. As it was the shot was fired at 5:07 o'clock, before the men had ascended from the mine.

In the code sought to be made a law in the Indian Territory, that an inspector shall be appointed, etc., it is commanded "in all dry and dusty coal mines, or mines discharging light carbonated hydrogen gas, shot firers must be employed to fire all shots after the employés and other persons have retired from the mines."

Here the shot fire was discharged from want of proper care, before the employés and others in the mines had retired, hence the great calamity. The Missouri mining code consists of forty-four sections, covering thirteen large pages of the Missouri printed statutes, and is the outgrowth of all the experience of fifty years of mining in that State. This bill is wholly nonpolitical, and has the unanimous indorsement of your committee.

The total cost of it to the Federal Government is one inspector, to be appointed by the Secretary of the Interior, who shall be a practical miner, with an annual salary of $1,500 and his actual traveling expenses, to office with the clerk of the United States court at South McAllister.

To indicate the topics treated of in this mining code and to give the House a skeleton view of their reach and extent, your committee, without attempting to set out the bill in its extent, contents itself with quoting the headnotes to each of the forty-four sections embraced in the code, viz:

1. Rights of miners and owners of mineral lands; condition of permits.
2. Forfeitures.
3. Tender of payment for ores dug.
4. Notice to owner or lessee.
5. Sale of ore.
6. Injunction or restraining orders; notice of application to dissolve.
7. Affidavit of course of drift and order to be made.
8. Order to be read by surveyor.
9. Refusal to obey order a misdemeanor.
10. Owner of mine or lessee shall drain mine, etc.
11. Scrapping for ore prohibited, etc.; penalty.
12. Indemnity bond; when required to mine in certain localities, etc.; violation a misdemeanor; penalty.
13. Notice of intention to mine, publication required.
14. Petition to circuit court; court to fix and approve bond.
15. Testimony on application; bond, etc.; time granted.
16. Bond required.
17. Written permission of property owner; violation a misdemeanor; penalty, fines, etc.
18. Costs attending notice.
19. Diagram of mines.
20. Application of article to mining companies.
21. Screening coal before weighing prohibited.
22. Weighman shall take an oath; penalty.
23. Penalty for using false scales.
24. Shall apply to loaders in certain mines.
25. Checks redeemable in money or goods; when.
26. Employés to be paid monthly.
27. Refusal to redeem orders; penalty.
28. Maps of mines to be prepared by owners, etc.
29. Inspector to make map when owner fails; costs.
30. Escapement shafts; when and how constructed.
31. Ventilation; fire damps.
32. Bore holes.
33. Signaling, hoisting; certain miners not to work, etc.
34. Regulations for hoisting.
35. Boilers, fencing entrances, signals, etc.
36. Accidents; duty and power of inspector, etc.
37. Fines; how recovered.
38. Secretary of Interior to appoint inspector, etc.
39. Duties of inspector; reports.
40. Inspector may enter mines at any time, etc.
41. In case of injury or death; right of action, etc.
42. Rules of working mines; penalty.
43. Prop timbers.
44. Explosives to be kept in strong box, etc.

The Superintendent of the Census, in Bulletin No. 43, dated March 21, 1891, writing of the coal fields of this Territory, says:

INDIAN TERRITORY.

The western or fourth field, which comprises the only deposits of the carboniferous measures west of the Mississippi River, extends across the boundaries of Kansas, Missouri, and Arkansas, into the Indian Territory, underlying almost the entire eastern half of that Territory. The present developments of importance are along the line of the Missouri, Kansas and Texas Railway, in the Choctaw Nation reserva-

tion, and are conducted by the Osage Coal and Mining Company at McAlester and the Atoka Mining Company at Lehigh.

The Choctaw Coal and Mining Company is constructing a line of railroad from the Arkansas State line, passing through Oklahoma, to the western boundary of the Territory, and southward to Denison, Tex., intersected by the St. Louis and Kansas Pacific, the Missouri, Kansas and Texas, the Atchison, Topeka and Santa Fé, and the Chicago, Rock Island and Pacific railroads. This company is engaged in developing a large area of excellent coal territory, lying along the route of the projected railroad, secured by lease from the Choctaw Nation. This enterprise will constitute one of the most important in the Southwest.

The quality of the coal now being mined in this Territory is excellent for steam and heating purposes, and is well suited for gas and coking. The beds from which the product is obtained range from 3 to 5 feet in thickness, and comprise the two lower veins, which are here found to be of much greater thickness and freer from bone and other impurities than in any part of the field. Competent authorities assert that the coals now being mined in the Indian Territory are superior to any found west of the Appalachian field.

The total product in the Territory during the calendar year 1889 was 752,832 short tons, valued $1,323,806. The average number of persons employed during the year was 1,867; the total wages paid, $927,267. No report of mining operations in this Territory was made for the Tenth Census.

In view of the imperious necessity for laws regulating mining industries of such value and extent, where none now exist, your committee recommend that the bill as amended do pass.

APPENDIX.

HALF A HUNDRED DEAD.

Mourning at the M'Alester, Ind. T., mines—Sixty-seven wounded and fourteen missing—Sixty-five coffins ordered—Edward Morgan's heroism—The cause of the explosion.

MCALESTER, IND. T., *January 9.*

The sister cities of South McAlester, McAlester, and Krebs to-day presented the appearance of deepest mourning. The court, which has been in session at South McAlester, was adjourned by Judge Shackelford yesterday morning and was not reconvened to-day. All business places are closed and are draped in mourning. The sole topic is the terrible mine explosion which has befallen the community.

The list of the dead, as far as can be ascertained, numbers fifty-one, with fourteen missing, and sixty-seven injured. The scenes at Krebs to-day were awful. The explosion has rendered hundreds of homes desolate. Your correspondent visited as many of them as possible and can only say that one line will describe the misery of all. The same heartrending scenes may be witnessed in each successive house. Every hovel is an improvised hospital, with beds and floors strewn with the injured.

"For God's sake, give me a mattress," wailed one unfortunate wretch who had lain upon the hard floor for forty-eight hours.

"We are doing our utmost to relieve their sufferings," said General Surgeon E. N. Allen, of the Choctaw Railroad, "but the medical force has been inadequate. Why, last night at 5 o'clock I personally attended injured men who had been brought to the surface twenty hours before and had lain all that time without medical attention, all simply because all the available physicians and surgeons, though working to their utmost capacity, could not reach them before." The injured present a most pitiable sight. All were burned and many mangled by flying rocks and timbers.

STORIES OF THE RESCUED.

"I have experienced all the tortures of hell," said Peter Christie, who escaped by climbing through a tunnel to shaft 7, which adjoined the doomed No. 11. "I was thrown 20 feet through the air over two cars. I jumped up and started through the air tunnel, seeking to escape. My injuries soon exhausted me, and I fell and was quickly trampled over by the fleeing miners, all bruising my body as you can see. I gained strength enough to raise a pick, and threatened the others who would have stepped upon me. Then, gaining additional strength, I got up and groped my way to the entrance and climbed out. On my way I encountered scores of dead

and dying comrades. Some of the latter were undergoing every agonizing contortion imaginable. One man whose clothes were burning from his body appeared so lifelike in posture that I went to his assistance only to discover that he was dead. The dying wails and shrieks of pain of the injured were frightful. Even Dante could not picture an inferno such as I have witnessed during the last night. One man was kicked to death in my sight by the frightened mules, whose heels he was unable to escape. I can not half tell the terrors of last night."

Another victim said: "I have been a fool. I have known of the threatened danger in shaft 11, but remained at work thinking that the danger was at least not immediate. Now, in consequence, I am a physical wreck, perhaps permanently incapable of work, while in the past year I have made three hundred and sixty-five resolutions not to enter that shaft again."

The neighborhood of the disaster was comparatively quiet to-day. Sorrowing friends and relatives seemed to have exhausted themselves and sought much-needed rest in their homes. Many tales of both horror and valor are brought to light. One corpse was brought to the surface to-day clasping tightly in its stiffened arms the detatched arm of a comrade, and throughout the entire day that once vigorous member of a swarthy human laid upon the slab unrecognized and adding additional terror to the hearts of the sorrowing throng, who seemed to hope that they would find familiar faces amongst the dead. One widowed mother lost both sons who were her only means of support. A blind father lost one son, while his remaining son is fatally injured, depriving him of his only means of support. A bride of two weeks mourns the loss of her idol. It seems utterly impossible to describe properly any of the horrible experiences which are presented on all sides. Wives distracted by seeking absent husbands, mothers seeking sons who are their only means of support, and sweethearts seeking those who soon were to have been their all in this world, it can easily be understood that columns should be devoted to an accurate description of such pathetic scenes.

EDWARD MORGAN'S HEROISM.

Even deeds of heroism, which are numerous, can not be reconnted in detail, though they certainly deserve it. Conspicuous, however, is the act of Edward Morgan, who was the first man to enter the yawning maw of the death hole. Other miners volunteered to accompany him, but were urged back by him.

"It is useless to expose an unnecessary number of lives to sacrifice," said he. "I will go down and ascertain the danger, and you can follow if it is safe." Fortunately it was safe, and the volunteers have worked nobly in the rescue of their imprisoned brothers. The different secret organizations have assumed charge of the funeral arrangements. Special engines were dispatched by the Choctaw and M. K. and T. railways last night for an extra supply of coffins, but many corpses remain unprepared for burial because the supply of caskets and shrouds were early exhausted. Sixty-five coffins have been ordered by the company alone, while local undertakers have sent for another carload.

NEGROES CREATE TROUBLE.

Men of all nationalities are aiding in the work of rescue. Americans, Irishmen, Scotchmen, Polanders, Welshmen, Italians, Swedes; all but negroes are at the work. Some time since the white miners refused to work with the negroes. This morning a number of the negroes went to Krebs and assisted in the work in only a half-hearted way, and one of their number was heard to say that it served the miners right to have been killed. The word was passed from mouth to mouth, and the indignation and fury of the miners knew no bounds. It seemed as though another horror would be added to the scene, but the United States deputy marshal, anticipating some such trouble, was on hand with a posse, and they drove the colored men from the place at the point of Winchesters.

It was almost impossible to recognize any resemblance to the human form in the bodies of many of those rescued. Heads, arms, legs, hands, and feet were in many instances torn from the trunks. The pit clothes were either partially or entirely burned away, and in several cases the flames had roasted almost all the flesh on the body. The dead were taken to a blacksmith shop near the main shaft, where a morgue had been improvised, and the living to their homes. The crowd vacillated between the shaft and the blacksmith shop all day. The latter place was constantly crowded with people searching to find those whom they knew must be either dead or badly hurt.

Each article of clothing and the contents of the pockets were closely scrutinized, and any distinguishable mark of nature whereby the body could be identified was eagerly searched for. A number of dismembered limbs are lying in the morgue waiting

identification. They were fitted to many bodies with the arms and legs missing, but no identification could be made. Yesterday afternoon when the work of relief began carload after carload of earth was removed from the mine, loosened by the explosion, and quantities of rock and slate were also taken out. There are probably ten more bodies under the earth and rock remaining.

A HORRIBLE SIGHT.

A most horrible sight met the rescuing parties as the bottom of the shaft was reached. Here a head, there a hand or leg protruded from the mass of fallen rock. A number of burned lamps, caps, and dinner buckets completed the desolation of the scene. The bodies were removed with all possible care, but this did not prevent an arm or a leg, almost severed from the body, from being completely torn off when taken from under the wreckage.

The force of the explosion tore the mine all to pieces. It closed up the galleries, tore down the barricades, which kept the air from circulating freely through the unused portion of the mine, thus cutting off all air from the galleries in use and left them, as was supposed, wholly untenable. None escaped except those brought up from the entrance or by shaft No. 7.

This morning the relief party of the Krebs miners was compelled, after forty-eight hours' steady labor, to stop work. The party was completely exhausted. The relief party is headed by Young Cameron, boss of the mine at Lehigh. The men are doing excellent work under his direction. Three carloads of mules were in the mine when the explosion occurred, and strange to say only two of the animals were hurt. The boss driver, Tom Kane, was killed.

The frenzied brutes committed great damage to the mine in their efforts to find an outlet.

THE SHOT-FIRERS TO BLAME.

Thomas Fleming, a mining expert and for eight years superintendent of the mine, but now general manager of the Southwestern Coal and Improvement Company, was interviewed this morning in regard to the explosion. He said that the whole blame should be placed upon the shot-firers, who fired the blast too soon. A windy shot caused the catastrophe. The blast was overcharged. It should have been fired at 5:30 o'clock, after the miners had left the mine, in which case the explosion would have occurred, but only 5 or 6 men would have been killed. As it was the shot was fired at 5:07 o'clock, before the men had ascended from the mine.

LIST OF THE DEAD.

The dead are:

Harley McShane.	Henry Johns.	Larry Hunt.
Alex Carente.	James Pestot.	Garidi Gaccomo.
Blue Horseo.	George Lindsy.	Jim Farmer.
William Mitchell.	William Walton.	Mike Pallen.
Tom Billuter.	Pat Powers.	John Fabrizio.
Ted Kibbets.	Mike McShane.	James Gandy.
Fiocio Angelo.	Robert McConal.	Joe Osland.
Pete Collins.	William Malton.	Joe Landsy.
John Harley.	Mike Kinnicle.	Billy Russell.
Pete Gregory.	Jack Williams.	Bob McConnell.

The missing are:

Lorenzo Sardino.	Joe Clark.	Salvet Sperro.
Antonio Genzod.	Bob McConnell.	Alinezo Gregor.
Joe Coranto.	Gon Dejocamo.	Mike Kennedy.
Angelo Fiocio.	Lesis Coranto.	Pat Powers.
Tom Villato.	John Gregory.	

THE INJURED.

The injured are: George Mooney, badly burned; Jack Carrey, foot crushed; Pete Christie, burned; Joe Jaccamo, face and hands burned; Nickles Rich, burned; J. E. Nicholson, sr., burned; J. E. Nicholson, jr., burned; Joe Mullen, head cut and body badly burned; Louis Blue, hands and face burned; Louis Carento, hands and face burned; Joe Malone, burned, rib broken; Joe McCaulley, head bruised; Tom McCaulley, mangled; Sherrito Berti, head bruised; Geralaneo, badly burned; Peter Vercillo, badly burned; Bertisto Vercillo, foot crushed; Bertiste Pomello, burned; Marquette Francisco, burned; Dom Jacco, burned; John McColleto, burned;

Mike Bettigo, badly burned and cut about the head; Tom Binona, burned and back broken; Antonio Sferro, face burned; Lolos Sferro, hands and face burned; one unknown, can not live; Nicolo Pasqualo, hands and face burned; Aerie Nicholas, burned; Daducca Powell, arm broken and head burned; Serppine Jocomo, hands and face burned; Antone Mangur, burned; Sarbello Nicolo, burned; Peter Mangur, burned; Louis Gregory, burned; Tedar Colly, burned; Josepho Belduce, head cut; Aureco Bonie, head burned; Tom Flynn, head cut; Ed Flynn, badly burned and mangled; Angelo Belzierene, burned and mangled; Steve Perry, hands and face burned; Frank Charle, body burned; Guellitto Defrangieo, head burned and cut; Wm. Hopkins, burned and bruised; Dan Hopkins, burned; Jim Clark, burned and bruised; Fred Hutchinson, burned; Horse McClelland, two ribs broken and two ankles sprained; Charles Martur, head burned and cut; John O'Brien, hands and face burned; Jim Stark, badly burned; Ed Bochan, burned and mangled; Pat Wynn, burned and cut; Mike Wynn, burned and leg broken; Pete Egan, face and head cut; Miles Jones, face and head cut; Jim Campbell, burned and mangled; Andy Campbell, burned; Eph Green, badly burned and mangled; W. S. Edwards, burned and bruised; Dan McAlpin, badly burned; Jose Elseland, burned, can not live; John McGirk, burned; Jim Doyle, head cut; Promesick, head burned and cut; Terren Jones, leg broken in two places, badly cut and mutilated; Reed Fullerton, burned; Pat Donney, burned; Jack Adley, burned.

THE MISSING.

Perhaps it will never be known just how many lives were lost in the accident. Some of the galleries and their approaches are so blocked with débris that it is nearly impossible to open them. The mine officials now claim that only one man is missing. This is an Italian named Antonio Geneztel, who seems to have no family and no friends except those who were killed. His body is supposed to be near the main entry under a mass of rocks, which has nearly all been moved. The men claim that there are others dead or imprisoned in the mines. There were 335 men working in the mine on Thursday, according to the pay roll and the tally reports of every man who goes down the shaft. Of these 51 dead bodies have been recovered, 137 men escaped by way of shaft No. 7, now used as a ventilating shaft, and 108 were rescued from the main shaft in a critical condition. This leaves 39 still unaccounted for. The list of those who escaped by shaft No. 1 and of those who were rescued from the main shaft is known to be incomplete, and it is believed that about 20 escaped, who have not been listed. This will leave about 19 bodies still in the mine.

The work of recovering the bodies is very slow and is impeded by the caving in of galleries. It is believed all who escaped death have been rescued. No signs of live miners entombed within the mine were detected to-day and the rescuers now expect to find nothing but the remains of the dead. It is claimed now that the undue haste of the entry men to get away from the mine caused the death of many miners. The entry men fire their own shots. John Hurley and John Williams are blamed as the authors of the accident, but death has already called them to a higher court. The mine committee and the mine owners will hold an investigation into the cause of the accident. Missouri, Kansas, Pennsylvania, Ohio, and other great mining States have State inspectors of mines, but there is no such an officer appointed by the Government in the Indian Territory.

JAY GOULD THE OWNER.

The McAlister mines, of which shaft No. 11 is a member, are owned by Jay Gould. The coal companies of the Missouri Pacific comprise the Atoka Coal and Mining Company, Osage Coal and Mining Company, Rich Hill Coal and Mining Company, and Walnut Land and Coal Company, with combined capital of $3,600,000.

The corporation has in operation over 30 mines in Missouri, Kansas, Arkansas, and the Indian Territory, with an output of 12,000 tons, employing 5,000 people during the years 1888 to 1890. The shipments were 7,611,545 tons, selling for over $12,000,000. The year 1891 will aggregate about 2,000,000 tons. Their trade extends from the City of Mexico in the South to the northern border of Nebraska in the North; from the Mississippi River in the East to the Rocky Mountains in the West. Over 20 railroad systems are supplied from their mines.

The celebrated McAlister coal, of which these corporations are the only miners and shippers, for the last twenty years has been the standard in the Southwest. The headquarters of the company are in St. Louis. Mr. Edwin Gould, of New York, is president of the company. Maj. R. M. McDowell, vice-president and general manager, is an eminent and well-known mining engineer of over thirty years' experience in the coal regions of Pennsylvania and with the Union Pacific Coal Company. Capt. S. W. Kniffen, general sales agent, enjoys a larger acquaintance

with the coal trade than any man in his position west of the Mississippi. Mr. W. Farnham, engineer and purchasing agent, was many years connected with the Erie Railway. Mr. Fisher, with headquarters at Dallas, has charge south of the Indian Territory. The loss to the mining company is estimated by its local representative to reach $100,000.

The Mound Coffin Company of this city prepared, ready for use within three hours' notice, thirty caskets. They expressed them to the Territory on a special car.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 163.

RELEASING CLAIM AND INTEREST TO A LOT IN DETROIT, MICH.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LAYTON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. Res. 10.]

The Committee on the Judiciary, to whom was referred House Resolution No. 10, has considered the same, and recommend its passage.

A similar measure was considered by the Committee on the Judiciary of the Fifty-first Congress, and a report was made by Mr. Culberson, of Texas. Your committee adopt that report and submit the same as the views of the committee on said resolution. The report is as follows:

The Committee on the Judiciary, to whom was referred the joint resolution entitled "Releasing the claim and interest of the United States to a certain lot in Detroit, Mich.," report that they have examined the facts in the case and recommend the passage of the resolution.

By the act of April 21, 1806, the governor and judges of the Territory of Michigan were authorized to lay out the city of Detroit, excepting a military reservation to be designated by the President. The designation was made, and a portion of what is now known as section 2 on the plot of the city of Detroit was included in it.

On May 20, 1826, an act was approved granting to the mayor and aldermen of said city all public grounds at Detroit theretofore occupied for military purposes, reserving and excepting, however, the public storehouse, arsenal lot, and one other lot on which the building occupied by the military storekeeper was situated. The last lot embraced the eastern portion of what is now lot 18 in said section 2. By act of May 28, 1830, the governor and judges of Michigan were required to, and under its provisions actually did, report a plan of their laying out of said city, one copy to be deposited with the secretary of the Territory, and the other with the Secretary of State at Washington, to be laid before Congress.

The report was transmitted to the Secretary of State, and the plan reported showed that said lot 18, with dimensions of 40 feet 9 inches in depth, was included in it, and that the western part of the lot occupied by the military storekeeper was part of lot 18. The western part of said lot passed by due conveyance into the possession of Gen. Lewis Cass. Sometime in 1832 Gen Cass, by his attorney, conveyed the whole of said lot 18 to Henry Glover, who has had possession of said lot ever since, and has erected costly buildings on it. It is supposed that Gen. Cass had a legal title to the entire lot, but it now appears that the title to a few feet of the eastern portion of it is not of record.

The value of the lot at the time it was bought by Glover was not more than $500. Glover has had possession of it for nearly sixty years and the United States during that time, and during some time before, has neither used nor claimed to use any part of it. If the case was between private parties there is no doubt that he could maintain a title against every claimant.

A search through the Departments here fails to show a title in Gen. Cass to the eastern portion of the said lot.

By the act of June 28, 1832, the President was authorized to dispose of such part of the military reservation of Detroit as was not wanted for military purposes, and under that act the public storehouse lot, arsenal lot, and all of the other lot, upon which the building of the military storekeeper was situated (all reserved under the act of May 20, 1826), were disposed of, except the strip of the last-named lot (military storekeeper's), which was included in the governor and judge's plan, reported to the Secretary of State for the information of Congress as constituting part of said lot 18, which was sold to Glover by Gen. Cass. Our opinion is that this strip was sold by the Government to Gen. Cass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 164.

SWEATING SYSTEM OF TENEMENT-HOUSE LABOR.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PAGE, of Rhode Island, from the Committee on Manufactures, submitted the following

REPORT:

[To accompany Mis. Doc. 71.]

The Committee on Manufactures, to whom was referred the accompanying resolution, having had the same under consideration, beg leave to submit the following report:

The committee recommends the passage of the resolution as amended.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 165.

MINING DÉBRIS IN CALIFORNIA.

FEBRUARY 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. COWLES, from the Committee on Mines and Mining, submitted the following

REPORT:

[To accompany H. Res. 81.]

The Committee on Mines and Mining having had House Resolution 78 under consideration report the same back and recommend the adoption of the accompanying substitute.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 166.

PENNSYLVANIA WAR CLAIMS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 546.]

The Committee on War Claims, to whom was referred the bill to authorize the payment to the State of Pennsylvania of damages sustained by citizens of the State of Pennsylvania from Union and Confederate troops during the late war, as adjudicated and liquidated by the State of Pennsylvania under the provisions of an act of the general assembly of the said State of Pennsylvania approved the 22d day of May, 1871, begs leave to submit the following report:

HISTORY OF THE CASE.

This bill is intended to provide for the payment of losses resulting mainly from three hostile expeditions that were made into Pennsylvania during the late civil war. The losses occurred in the counties of Adams, Bedford, Cumberland, Franklin, Fulton, Perry, Somerset, and York, all lying along the southern border of Pennsylvania, excepting Cumberland and Perry, which adjoin Franklin and Adams on the north.

The first expedition was made in 1862 by Gen. Stuart, principally in the two counties of Adams and Franklin. In 1863 occurred the great invasion of Pennsylvania by the army of Gen. Lee, whose operations culminated in his defeat at Gettysburg and retreat across the Potomac. In 1864 occurred the cavalry raids by the army of Gen. Early, who unexpectedly marched down the Shenandoah Valley.

On the 29th of July, 1864, the Confederate brigades of Johnson and McCausland, consisting of from 2,500 to 3,000 men, with six guns, crossed the Potomac and advanced upon Chambersburg, the county seat of Franklin County. The town was invested by the entire command of Johnson and McCausland, and a demand made upon the people for $100,000 in gold or $500,000 in Government funds as a ransom, a number of citizens being arrested and held as hostages for its payment. No offer of money was made by the people, and the town was burned by the Confederate forces.

The burning of Chambersburg occurred July 30, 1864, and resulted in a loss which was estimated by commissions appointed by two acts of assembly of Pennsylvania of 1868 and 1871.

The final adjudication, under the provisions of the act of 1871, of the claims for losses sustained in the burning of this town, was $1,625,435.55. The total amount of the claims, including the losses by reason of the

burning of Chambersburg, as they were investigated and finally liquidated under the provisions of the act of 1871, is $3,450,565.45.

By far the larger portion of the claims presented by the State of Pennsylvania, and which this bill is intended to meet, was the result of the raids of 1864, upon the sudden advance of Gen. Early northward through the Shenandoah Valley.

The amount of damages inflicted by Stuart's raid in 1862, according to the findings of the commission appointed under the acts of assembly referred to, was $123,067.60.

The following is a statement of the amount of losses suffered by each county from the several invasions above mentioned:

Adams County		$485,900.71
Stuart's raid		3,538.28
		489,438.99
Franklin County	$726,503.98	
Stuart's raid	119,529.32	
Burning of Chambersburg	1,625,435.55	
		2,471,468.85
Cumberland County		211,778.95
Fulton County		6,808.03
York County		53,944.08
Somerset County		214,366.15
Do		120.00
Perry County		2,640.40
		3,450,565.45

All of the above were adjudicated under an act of assembly passed in 1868, and subsequently the same claims were reëxamined under the provisions of an act of assembly passed in 1871, somewhat reducing the amount of the findings under the earlier act of 1868.

The legislation of Pennsylvania upon the subject of these claims, the first legislative expression being before the close of the war, had always in view of the liability of the General Government. This seems to have been the tenor of the language of the governor in his message in 1864 to the legislature assembled under a special call immediately after the burning of Chambersburg.

There was a repeated assertion on the part of the State of a claim for indemnity or reimbursement to its citizens for the extraordinary losses suffered in these several raids and invasions. The legislature, called in special session immediately after the burning of Chambersburg, made provision to the extent of the comparatively small sum of $100,000, which was distributed pro rata among the most destitute sufferers from the destruction of Chambersburg. This seems to have been a pure charity.

The next act was that of February 15, 1866 (P. L., 43), appropriating to the citizens of Chambersburg, on account of losses by reason of the burning of their town by Confederate troops, the sum of $500,000.

In that legislation the court of common pleas of the county in which the capital of the State is located was authorized to appoint three appraisers to make a just and true appraisement of the losses sustained by the people of Chambersburg and vicinity by reason of the burning of the town, and prescribed a method of procedure. The $500,000 was to be divided pro rata and receipted for by the sufferers whose claims might be allowed, which receipts were to "state the amount paid and authorize the State to receive from the General Government said sums out of any money which may hereafter be appropriated by Congress to compensate them for losses sustained by the war." Thus was early

asserted, in this act of 1866, by the reservation alluded to, the right to indemnity, and the payments by the State were made with the understanding expressed in the act that the State was not to be concluded by her action in this legislation, nor to be understood as relinquishing any right to insist upon these claims as against the United States or as assuming them herself.

In 1871 a further act was passed by the legislature of Pennsylvania appropriating $300,000 to the citizens of Chambersburg and vicinity whose claims for war damages had been adjudicated under the act of February 15, 1866. This was the act of May 27, 1871 (P. L. 223, sec. 67). This amount was appropriated in the shape of loan certificates to be issued to citizens of Chambersburg whose claims had been adjudicated, as already stated, to the amount of $300,000 pro rata to said claimants, $18,000 to pay interest on the certificates for the current year, the certificates to be redeemable in five years or sooner, at the option of the State, and upon the issue of said certificates to the claimants, respectively, the State to become the holder of said claims. The governor, by said act, was further authorized to demand the payment of the amounts theretofore paid, and thereby appropriated to said claimants, from the General Government, and to appoint agents for the purpose, etc. It was further provided that out of any moneys appropriated by the United States said certificates of loan shall be first redeemed, and any additional amount repaid to the State on account of advancement of said claims shall be appropriated pro rata, by the State treasurer, to the claimants in the border counties for war damages adjudicated under the several acts of assembly, except those adjudicated under the act of February 15, 1866.

The acts of assembly that were from time to time passed to investigate and perpetuate the evidence of these claims, and providing against fraud or speculation therein, are of a character that must commend themselves to the judgment of fair-minded men.

These claims have been adjusted and readjusted under conditions and methods of procedure which would seem to exclude all possibility of misrepresentation or imposition.

They were adjudicated for all the counties in which losses were incurred by the operations of the war, under the act of April 9, 1868 (P. L. 74), entitled "An act for the relief of the citizens of the counties of Adams, Franklin, Fulton, Bedford, York, Perry, and Cumberland, whose property was destroyed, damaged, or appropriated for the public service and in the common defense in the war to suppress the rebellion," which act provided for the appointment of commissioners to investigate and adjudicate the claims of the citizens of the said counties, and upon their adjudication to report and file the same with the auditor-general, and imposing the duty upon the proper officers of the Commonwealth, to be designated by the governor, to proceed to recover compensation for said losses from the General Government, and, when so collected, the amount recovered to be paid pro rata to the sufferers in accordance with the report of the commissioners thus appointed. Provision was therein made for the ascertainment and appraisement by the commissioners of the losses sustained, and an elaborate mode of procedure and method of verification and proof prescribed.

The matter was again brought before the legislature and the act of May 22, 1871 (P. L., 272), was passed. This was entitled "An act to authorize a liquidation of damages sustained by citizens of Pennsylvania during the late rebellion," and provided that the claims of the citizens of the counties of Adams, Bedford, Cumberland, Franklin, Perry, and

York for extraordinary losses sustained during the rebellion, as adjudicated under the prior acts, naming them, be subjected to a careful revision by two commissioners in each of the counties named, to be appointed by the president judges of the courts of common pleas of said several counties. There was this further provision:

And the governor shall appoint competent counsel to represent the Government in the revision of said claims before the several commissioners; and said commissioners shall reëxamine and readjudicate all of said claims, and may reject or diminish any now on file as equity may require, but not increase the amount of any, excepting the claim of the German Reformed Church (which was one claim which it was provided shall be equitably adjusted); and any claims which may have been assigned or transferred by the original claimant, the assignee or present owner of the same shall be required to make satisfactory proof of the amount actually paid for the claim; and the amount so paid shall be awarded and no more; and if any owner of an assigned claim shall fail to make such proof satisfactorily, the claim shall be rejected, and as said commissioners readjudicate said claim, they shall indorse their approval thereon for the amount allowed, and return the claims to the auditor-general.

This latter officer corresponds to the officer known as the comptroller or comptroller-general in some of the States.

These claims, as finally adjudicated under the last act, are on file in the auditor-general's office, excepting those which have been retained at Washington in order that they might not lose any right to have them allowed under the act of July 4, 1864.

Section 2 of the act provides:

The State shall issue to each claimant, or to his, her, or their representative, a certificate or certificates to the amount allowed on each claim, in the following form.

This is the form of the certificate.

This is to certify that ——— ——— has on file in the office of the auditor-general a duly approved and registered claim for the sum of ——— dollars, as adjudicated under the act entitled "An act to authorize the liquidation of damages sustained by citizens of Pennsylvania during the late rebellion," and payable only when said claims shall be paid by the United States Government.

These commissioners have reported and filed their reports and their findings, with proofs, in the auditor-general's office. The certificates have been nearly or quite all delivered to the holders.

Attention is called to the reservation contained in this certificate. These certificates, signed by the governor and State treasurer and countersigned by the auditor-general, are the evidence in the hands of the holders, and contain the implied pledge of the State to secure the payment from the General Government of the claims so ascertained, whereby they may and do invoke the agency of the State to secure the final payment of the claims so ascertained and evidenced.

This last adjudication includes the losses that were sustained by reason of the burning of Chambersburg.

The following section of the act of 1871 sets forth the undertaking of the Commonwealth to secure, so far as it may, the enforcement of what has always been believed to be the obligation of the Federal Government.

SEC. 3. It shall be the duty of the governor of the State to demand the payment of said claims by the General Government, and also the payment of the amount heretofore paid by the State on said claims, and to appoint such agents for the purpose as may be deemed necessary, and any appropriation made by Congress to said claims shall be wholly applied to the certificates authorized by the second section of this act, as Congress may direct, until the same shall be paid in full: *Provided*, That this act shall not be construed to make the State in anywise responsible for or on account of said certificates.

These claims have been solemnly adjudicated, and there has been ex-

cluded any possible mistake, imposition, or fraud that might otherwise have been practiced upon either the State or the National Government. They were deliberately and carefully passed upon in an orderly proceeding in which the adverse interest was represented. In a great majority of cases these claims were presented by the claimants themselves without the intervention of counsel. The commissions were composed of men of high character in each of the counties named in the act, and, as already stated, the public interests were represented in a way that was in all respects analogous to that in which the General Government appears before the Court of Claims. The claims were thoroughly examined, the proofs and findings filed, and the whole is a matter of record in the office of the auditor-general of Pennsylvania. There has been special care exercised in these different proceedings to secure nothing against the General Government but what was justly due.

Shortly after the war of secession broke out, Governor Curtin, under the authority of the State of Pennsylvania, organized this body spoken of as the Pennsylvania Reserves. This was done under an act of assembly entitled "An act to create a loan to provide for arming the State," approved 1861, which provided for the loan of $3,000,000 "to defray the expenses of organizing, arming, equipping, transferring, and supporting the military forces of this State now or hereafter to be called into the service in aid of the government of this State or of the United States."

It was provided by this act that the commander in chief, who was the governor, in connection with the officers composing the grand staff of the militia, were authorized to organize a military corps, to be called the Reserve Volunteer Corps of the Commonwealth, to be composed of thirteen regiments of infantry, one regiment of cavalry, and one regiment of light artillery; these regiments to be organized, armed, equipped, clothed, disciplined, governed, and officered as similar troops in the service of the United States, and to be enlisted in the service of the State for a period not exceeding three years, or for the war, unless discharged, and were liable to be called into the service of the State at such times as the commander in chief might deem their services necessary for the purpose of suppressing insurrections or to repel invasions, with the further provisions that they were liable to be mustered into the service of the United States, as of course they were upon a requisition by the General Government, whether so expressed in the act or not.

Further provisions were contained in the said act for the establishment of camps of instruction, and for the pay and rations of the said corps under the State authority.

Under that act the Pennsylvania Reserves were organized; they were put into camps of instruction, and they constituted a standing army reasonably sufficient for the defense of the State against such raids and invasions of the enemy as then seemed likely to occur.

These troops, shortly after the disaster at Bull Run, in 1861, were suddenly called into the service of the United States Government, at a critical period, and were, until the close of the war, retained as part of the forces of the National Government operating in the field.

This corps, as provided in the act, was composed of thirteen regiments of infantry, one regiment of cavalry, and one regiment of light artillery. They were fully armed, equipped, and organized, as provided by the act. They were among the best soldiers raised by the State, and, at the time they were suddenly called into the service of the Gov-

ernment, were in a high state of discipline and efficiency. Their splendid history justified the expectations had as to their ability to defend the State against anticipated invasion.

Both in 1862 and 1863, upon the occasions of the invasions that took place in those years, the militia of the State were called out by the governor. They were, of course, practically useless in the face of disciplined and veteran armies, and were inadequate to the protection of the State.

In 1862 the militia were called out because of the fears entertained of an invasion into the State by Lee, which, however, was thwarted by his repulse at Antietam. There were no forces in the State at the time of Stuart's raid, which took place in October, 1862, and the southern counties were entirely at the mercy of Stuart's troops.

There are certain special circumstances connected with the raid of 1864 and the burning of Chambersburg, which was its principal result, which it is proper to state.

On July 21, 1864, Governor Curtin, of Pennsylvania, and Governor Bradford, of Maryland, addressed a joint letter to the President, calling attention to the repeated raids across the Potomac River made by portions of the Confederate army, and proposing to enlist from their respective States a volunteer force sufficient, with the aid of such fortifications as might be speedily constructed, to guard the fords and protect the two States from these raids, and further asked that the recruits so raised be credited on the quotas of said States on the call last made, and that they be armed, equipped, and supplied as other volunteers in the service.

Attention is also called to the precedent in the early part of the war, by which the importance of a special defense was recognized by the Government, and the governor of Maryland authorized to raise three regiments with a view to the protection of that portion of his State. These regiments were subsequently called into the service of the Government and so stated in the communication. The letter earnestly urged upon the President the importance of acceding to the suggestion made, and stated the purpose to immediately raise the forces required.

This letter was not answered until a day or two after the burning of Chambersburg, and then by a brief refusal to grant the authority asked.

At the time of the raid of McCausland and Johnson there were some seven regiments in the service of the State of Pennsylvania. These had been raised for border protection. They were sufficient to have coped with the invading force, which consisted of 2,500 to 3,000 men. A diversion having been made towards Washington by a portion of the Confederate troops, these regiments were called for for the protection of the capital. Three days after these troops were called to the Federal capital the town of Chambersburg was destroyed.

It might be mentioned that the region traversed by the invading forces was one of the richest and most inviting portions of the State, and the trend of the valleys leading to the State was such as to afford easy access and open avenues for retreat. The conditions were such as to suggest the likelihood of invasion and the importance of defensive measures.

It was pressed upon the attention of the committee that the State during the war had contributed to the armies of the Union, exclusive of militia and recruits for the Navy, under the several calls made upon her, a total of 362,284 men, being more than one-third of a million.

ARGUMENT.

The claim, provision for which is intended to be made by the accompanying bill, is presented by the State of Pennsylvania in her corporate and political capacity. The position of the State through her representatives, is that as a party to an express compact in the Federal Constitution there is guarantied to her a right to protection by the General Government against invasion, and impliedly a right to indemnity upon failure to afford such protection.

No case similar to the one now under consideration can be found. The cases are numerous where it has been held that a Government is not liable to its citizens for property destroyed in actual conflict by its own military authorities, or for property of the citizen destroyed by the enemy's forces. That doctrine has been so often asserted that if adjudicated cases are followed it is no longer the subject of dispute.

But this case does not fall within this rule, and for the following reasons:

First. Prior to the adoption of the Constitution there existed thirteen independent sovereign States, of which Pennsylvania was one.

Second. A Federal Government was created under the provisions of the Constitution, having jurisdiction over these States to the extent, and only to the extent, named in the Constitution; but the authority of the States remained; they continued to be independent of the Federal Government in all respects except as to the powers granted to the latter.

Third. One of the objects of the Constitution was to "insure domestic tranquillity."

Fourth. The ratification of the Constitution was required of each State before the State became a part of this Federal Government. This ratification was by the State as an independent government. (See authorities cited in Paschal's Anno. Const., note 243.)

Fifth. The right of a State to have a militia was recognized; but by Article II, section 8, clause 15, power was given to Congress to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions. And by section 2 of same article the President is made commander in chief of the militia of the several States when called into actual service; but the right is reserved to the States to appoint the officers of, and to train the militia, according to the discipline prescribed by Congress.

Sixth. In consideration of the grant by the States to the Federal Government of the powers enumerated in the Constitution it was stipulated in section 4, Article IV, that "the United States shall protect each of them (the States) against invasion."

Seventh. The guaranty to protect each State against invasion was one of supreme importance to the States, and especially in view of the fact that the State had conceded to this new nation, into which it entered, the power to control its militia in all respects, except the officering and training. And when the Federal Government fails to protect a State against invasion, and by reason thereof injuries have been sustained, a very different question is presented from such as we have above mentioned, to wit, in claims made by private citizens for injuries by the Federal forces in actual conflict, or injuries inflicted by the enemy on such invidual citizens.

The present claim now under consideration is presented by the State of Pennsylvania, one of the States that entered into and became a part of this new nation, and party to this covenant for protection against

invasion upon the terms already mentioned. It is, therefore, a claim that does not, as we submit, fall within the rule so often quoted.

Eighth. The constitution does not provide what shall follow as the result of a failure to "protect against invasion," and now, as we think, for the first time Congress is brought to the consideration of that question.

The obligation existed to protect, and there must be, in the highest political sense, if not in a sense justiciable in the court, a consequent and resulting liability, or obligation, upon failure to so protect. Whatever is necessary or proper to compensate for that failure is the discharge of an obligation, and not the dispensation of a bounty.

Each State before the Constitution had the power to create and control its own army for the defense of its territory, its property, its citizens, and their property; but this military power was surrendered to the Federal Government upon the guaranty of the latter that it would do what might have been done by the State but for the entering into this new relation; and it would, therefore, seem to conclusively follow that if there was loss of property by reason of failure to keep this guaranty compensation should be made for that loss.

The next question is, was there an "invasion" in the sense of the Constitution?

This is answered by the Supreme Court of the United States in the case of Pacific Railroad *vs.* The United States (120 U. S. R., 227), in these words:

> It has been held by this court in repeated instances that, though the late war was not between independent nations, yet, as it was between the people of different sections of the country, and the insurgents were so thoroughly organized and formidable as to necessitate their recognition as belligerents, the usual incidents of a war between independent nations ensued. The rules of war as recognized by the public law of civilized nations became applicable to the contending forces. Their adoption was seen in the exchange of prisoners, the release of officers on parole, the recognition of flags of truce, and other arrangements designed to mitigate the rigors of warfare. The inhabitants of the Confederate States on the one hand, and of the States which adhered to the Union on the other, became enemies and subject to be treated as such, without regard to their individual opinions or dispositions, while during its continuance commercial intercourse between them was forbidden, contracts between them were suspended, and the courts of each were closed to the citizens of the other. (Brown *vs.* Hiatts, 15 Wall., 177, 184.)

In the light of this it can not be doubted that the entering upon the soil of the State of Pennsylvania by the Confederate forces for hostile purposes was an "invasion" against which the United States had guaranteed that State protection.

The duties to keep this guaranty and to make compensation for failure is emphasized by the facts of this case already recited, and of which the following is a brief summary:

The State of Pennsylvania responded to every call of the Government for the common defense. Her quota of troops was never unfilled. There was no duty she did not perform in common with her sister nonseceding States for the maintenance of the authority of the Federal Government. But she was situated on the border, and in addition to responding as above stated, and notwithstanding that she had the right to expect that the Government would prevent the enemy from entering upon her territory, she organized in addition militia of her own to repel any attempted invasion. She took every precaution against such a calamity. These forces were organized, drilled, armed, and equipped at the expense of the State, and stationed to protect against the very invasion and injuries for which she now presents this claim.

But there was imminent danger to the entire country of incalculably

greater loss. The capital of the nation was threatened. Its vast property interests at the seat of Government, its Treasury, its archives, its very existence as a government—all were in the greatest peril, and in this crisis, under the Constitution, the President called this force, organized to protect the State, to the higher duty of protecting the nation. The call was responded to by the withdrawal of said reserved militia raised by the State, and that withdrawal left the State defenseless and this injury followed.

It is impossible to make a stronger case than this for asking compensation under this guaranteed protection.

If this does not make a case, then this guaranty might better have never been written. It is only a delusion and a snare if no obligation follows a failure, because no one can read the Articles of Confederation and the history of the times without being impressed that this Constitution whereby the control of the militia was surrendered, and the power to protect against invasion yielded to the Federal Government, never would have been agreed to if it had been supposed that the guaranty to protect imposed no obligation.

If such a guaranty were found in a treaty between two nations it would not be doubted that a failure to keep it by the guarantor would call for pecuniary compensation. No argument is needed to support that proposition.

Just such a case occurred in our own history; such a guaranty was made by this Government to France. There was a failure to keep it. France demanded indemnity and it was paid.

While the Constitution is not a treaty, its acceptance by the States under the circumstances makes the obligation in principle the same, and the duty to keep it is, if possible, more imperative, because it was a condition precedent to national existence.

If there were no other considerations than the mere provisions of the Constitution and the facts submitted, these, in the opinion of your committee, not only justify but demand that compensation be made for these losses. But there are other considerations that are worthy of notice.

The writings of Grotius, Vattel, and others are continually cited as authority for the doctrine that nations are not liable to pay citizens for losses of property incident to the ravages of war; but the rule laid down by them, as will presently appear, has the important qualification that it rests not upon any principle which forbids, but only upon an inability to pay.

We have already shown that this case does not fall within the rule. But, conceding the rule, nobody has ever questioned that it is a harsh rule, and no writer has ever attempted to justify it except upon the ground of necessity.

It is not and can not be defended because it is a just rule. It is only said that it is the misfortune of the citizen to have property where the shock of battle came, or in the path of an invading enemy, and that his Government has not money enough to compensate him. He does his full duty in common with all other citizens and added to this is the loss of his property, a loss they do not suffer. It is a loss incurred in a conflict involving interests common to all, and justice would demand that the loss should be the loss of all. There is no logic that can reach any other conclusion.

The rule referred to was stated by Grotius three hundred years ago, and was repeated by Puffendorf and Vattel two hundred years ago. Courts still adhere to it; but no nation in its sovereign capacity is con-

trolled by it, or can be justified in resorting to it, to escape its moral obligations to its citizens, because it can not be defended upon any principle of justice.

That the tendency of nations is in the direction of equalizing among all the citizens such losses is evidenced by the fact that such a nation as Great Britian compensated the Tories of the Revolution for losses incident to adherence to the sovereignity of the mother country; and France compensated her citizens for losses inflicted by the German army of invasion, and, also, such as were inflicted by her own army.

And we are not without precedent in our own country, for our Government has repeatedly, by statutes, compensated our citizens for losses by reason of destruction of property by the British in the war of 1812.

But this claim stands on a higher plane and on a firmer foundation than any of these. Its payment requires no departure from any rule, wise or unwise, just or unjust; it rests not only upon a principle inherently just, but also upon a solemn guaranty in the Constitution of the United States. To that the State of Pennsylvania appeals.

It is no answer to this that the amount is large. Nor is it any answer that other States may present claims.

We now restate in the form of a condensed recapitulation the controlling facts which seem to the committee to take this claim of the State of Pennsylvania out of the operation of that rule of the public law upon which the opposition to this claim is based, and which rule is, in substance, that no action lies against the State for the misfortunes and ravages of war (120 U. S. R., 234); and which facts bring said claim within the operation of that equally established qualification of the said rule which ordains that in all such cases of loss "the sovereign indeed ought to show an equitable regard for the sufferings of such injured citizens, if the situation of the affairs of the state will admit of it."

In this recapitulation we will, for the sake of brevity, and as covering the great body of the present claim, leave out of view the losses of the State and the people of Pennsylvania occurring prior to 1864.

The facts which make up the basis of the claim applicable to that year are as follows:

1. The civil war was still flagrant.

2. The military events of 1863, and those extending up to the defeat of Gen. Wallace on the Monocacy and prior to the invasion of Pennsylvania by the brigades of Johnson and McCausland, about the 29th of July, 1864, had rendered it possible for Pennsylvania, aided by the necessary effects of the military operations of the United States then being prosecuted south of Pennsylvania, to defend the State against said threatened invasion, provided the United States had allowed Pennsylvania to retain her own regiments of Pennsylvania troops which she had, previously to the burning of Chambersburg, provided for her defense against such invasion.

3. This militia, so provided by the State in the year 1864, for the defense of the State and her citizens, and which was, as stated below, turned over to the National Government, was no part of the military quota of Pennsylvania, such quota being full independently of the said militia forces ordered into the service of the United States in 1864.

4. The authorities of Pennsylvania, having foreseen said danger of invasion, not only provided said militia force in amount reasonably adequate (had the State been permitted to retain and use the same for the purpose for which it was raised) for the repelling of said invasion, resulting in the said destruction of Chambersburg and other losses of that

year, but also applied at the War Department to be allowed to retain her own said militia for the purpose of her said defense. But such request was refused, and the State of Pennsylvania was required to turn over and did turn over to the United States, of her militia so raised, armed, organized, and equipped at her own expense, and which was not necessary to make up any part of her military quota, seven regiments at least, the last of which left the State on the 29th of July, 1864, at which time no part of the Confederate army had yet reached, but was then approaching, the State of Pennsylvania.

5. On the 29th of July the Confederate brigades of Johnson and McCausland, consisting of from twenty-five hundred to three thousand men, with six guns, crossed the Potomac at Clear Spring, and marched immediately into Pennsylvania, and reached Chambersburg Saturday, July 30, where the only Federal forces left for defense consisted of a company of infantry of about sixty men, and forty-five cavalry, and a battery of artillery, less than one hundred and fifty in all; these, under General Couch, being totally inadequate to make any defense of the said town.

6. On the morning of the 30th of July a portion of the said Confederate forces reached Chambersburg, and thereupon, after demanding $100,000 in gold, or $500,000 in Government funds from the citizens, and without waiting for them to comply with the said demand, the said town was pillaged and burned by said Confederate forces.

These depredations and those immediately preceding and following make up the great body of the present claim.

7. The exposed condition of Pennsylvania's southern border was at this time peculiar, and the danger of her people from the ravages of said Confederate forces was far greater than that of any other border State, for the reasons, amongst others, following:

(*a*) That her border was in the immediate vicinity of the conflict between the heaviest bodies of the two contending armies; and such border could be reached by Confederate forces detached from her main armies for the invasion of Pennsylvania in a few hours from the time of their detachment.

(*b*) Such invasion was not only highly probable at the time the State was required to surrender her said militia, but the invasion was actually visible and in progress.

8. The State of Pennsylvania has been prompt, active, vigilant, and earnest in the preparation of this claim for allowance by the Government of the United States; has been guilty of no neglect or delay that would tend to prejudice the claim; and has, under the most careful provisions of law, taken testimony and made quasi judicial investigations, ascertaining and fixing the amount of losses resulting from the facts aforesaid; and has duly preserved the same, giving to the Government and all parties concerned full opportunity to present testimony before the commission provided by law for auditing the said claims, and has made record thereof; and has duly and repeatedly presented for payment the said claims and the evidence in support thereof.

9. The claimant in this case is one of the States of the Union, and is, as such, entitled to whatever benefit and indemnity results from the constitutional covenant which guarantees to the States "protection against invasion."

10. Although other States, and the loyal citizens thereof, sustained ravages committed by Confederate armies, which your committee in-

cline to think the entire people ought to reimburse, in obedience to the above-quoted rule of the public law, which says

> The sovereign, indeed, ought to show an equitable regard for the sufferings of such injured citizens if the situation of the affairs of the state will admit of it,

yet this claim of Pennsylvania, as above recapitulated, seems to your committee to be exceptional in many very obvious and important respects, and to bring this claim of the State peculiarly and clearly within the class which, under the present and more enlightened precepts of the public law, are required to be borne by the entire people of the country, instead of being borne alone by the people upon whom these losses fell.

The foregoing constitute the entire substance of the controlling facts which decide the merits of the present claim. Your committee attach high importance to the consideration that these facts are, in their entire body and substance, facts incapable of bona fide dispute, because they are facts established by the public records of the State and of the Union, and are facts which have entered into and make a part of the accepted history of the country.

Hence it is that the duty of the committee is not one embarrassed by doubt, hesitation, or controversy regarding the facts that control the case, and we are only called upon to determine what the obligation of the Union is as resulting from them.

The facts recited above—giving prominence to the provisions made by Pennsylvania, through the organization of her militia to defend her own borders, and given to the further fact that, under the paramount authority of the supreme law, this militia was ordered into the U. S. Army in defense of the national capital, so as that this State militia was, in obedience to the orders of the President, actually marching out of the State which they were organized to defend when the Confederate invaders were in actual march to the places just vacated by that militia at the seat of the devastations which make the present claim—have not been here presented for the purpose of attempting to condemn or even criticise the acts of the President in so calling this militia away from Pennsylvania to the defense of the Union.

Legislatures have by the common judgment of mankind, as well as by our Constitution, not been looked upon as the best commanders of armies, even when the war is on. Much less is the present Congress now, at a distance of a quarter of a century from these immense and most complex affairs which led to the withdrawal from Pennsylvania of her militia, competent to intelligently condemn that act of withdrawal as either unwise or unjust, or one not resulting in the highest good to the entire Union.

But whilst it is not competent for this Congress to sit in judgment upon or to decide *that* question, it is perfectly competent for this Congress to consider the intrinsic justice of a claim by the individual locality or State for the compensation out of the common treasury of the entire people for losses by such locality sustained for the common good. It is competent for this Congress to test the validity of that claim by those principles of natural justice which never change and which are the foundations of all public morality and public law. It is, for example, competent for the present Congress to determine whether one who at his own expense, and in exercise of his own vigilance and care has made ample provision for defending his property against ravages of fire or other devastation and who, by public authority, is for the common good and at the hour of his extreme need stripped of

those provisions made for defense of his property, ought, by the principles of universal and natural justice, to be compensated out of the common treasury for such losses of his individual property.

And it is with precisely this question of public law and of natural justice that your committee and the Congress of the Union now deal in determining upon the validity of the present claim. There enters into this question no nice or difficult or subtle or technical or even new question of law. Indeed there enters into it no questions which have not been adjudicated and settled by the common consent and conscience of the civilized world.

Your committee do not deem it needful here to enter upon an extended examination of the general question of the liability of governments to actions by the citizens for losses resulting from the ravages of war. The truth is that all the authority which is in existence on that subject is collected and cited in the opinion by Field, Justice, in the late case of the United States against the Pacific Railroad (100 U. S. R., 227). It is sufficient for the present purpose of the committee to say, as to all the authorities there cited and as to the conclusions reached by the court in that case, that they all not only recognize but expressly assert that principle of natural right on which your committee base their approval of the present claim. That principle is the one which we have already quoted from Vattel, and which the Supreme Court quotes in the case of the United States *vs.* The Pacific Railroad, *supra*, at bottom page 234, and which is expressed in the words already quoted, to wit, that "the sovereign, indeed, ought to show an equitable regard for the sufferer (whose property has been sacrificed for the common good), if the situation of his affairs will admit of it."

It will hardly be earnestly asserted that this claim of Pennsylvania, if otherwise entitled to payment on the principles of universal right and of immutable justice, and on the principles taught by the later and more benign practices of civilized nations, ought still to be rejected upon the pauper's plea that "the situation of the affairs" of this nation will not admit of this payment.

By the pendency of this conspicuous claim of one of the great States of the Union the nation and the people thereof are required to pass upon considerations like these:

1. That from the time of Grotius down the law of nations has taught that individuals and individual localities ought not to be left to bear exceptional and extraordinary burdens of war which have been incurred for and resulted in the general good, unless the situation of the national treasury is such as to forbid the nation's compensating such exceptional losses from the common treasury of the entire people.

2. The rigor of those principles of the common law which require individuals and localities to sustain losses incurred for and resulting in the general good, such as the destruction of private property for the prevention of the spread of fire in cities, has been universally relieved against and abolished by modern legislation, whereby such losses are thrown upon the common treasury of the people for whose benefit the individual loss is sustained.

An example of this remedial legislation is pointed to in such cases as Bowditch *vs.* Boston (101 U. S. R., 16), similar legislation being found in the statute books of about every, if not every, State in the Union.

So in regard to the rigor of the rule requiring individuals in war to suffer the losses resulting from the ravages of war.

The most conspicuous and the most honored events in modern history

connected with war are those which tend to the amelioration of these hardships and to the abolition of the severities of the public or common law, whereby individuals were required to bear undue proportions of the losses resulting from the ravages of war.

Amongst these examples where governments have chosen to compensate individual losses coming from the ravages of war which were special and peculiar, no one is pointed to with more pride by the people of this country or is more honored by the common judgment of the world than is that one which is found in the history of the Treaty of Washington, whereby Great Britain paid to the United States the amount of special losses sustained by American citizens on the seas through the ravages of war, and whereby, pursuant to the designs of that treaty, the Government of the United States has paid to such sufferers indemnity for such special and peculiar losses.

Another example hereinbefore mentioned is in the compensation made by Great Britain for the losses sustained by the loyalists in the war of the Revolution.

Another example, before alluded to, of this relaxation of the severity of the rule prohibiting compensation for ravages of war is found in the compensation made by France to her own citizens for special losses incurred in the late French and German war.

These examples might be multiplied, but need not be. The manifest and conclusive teaching of them all is to admonish legislatures and governments that the spirit of the age and the morality of the public law unite in demanding that where war has brought upon individuals peculiar and special losses, which have been incurred for and resulted in the general good of the entire people, there the treasury of the entire people ought to make compensation therefor.

It is in obedience to this, which your committee deem one of the most excellent provisions of modern public law, that your committee recommend the payment of the pending claim.

Your committee therefore report the bill with the recommendation that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 167.

REIMBURSING STATE OF PENNSYLVANIA FOR MONEY EXPENDED FOR MILITIA SERVICE.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 369.]

The Committee on War Claims, to whom was referred the bill (H. R. 369) to indemnify the State of Pennsylvania for money expended in 1864 for militia called into the military service by the governor under the proclamation of the President of June 15, 1863, respectfully report as follows:

That this claim was presented to the Fifty-first Congress, and a report was made in regard to it by the Committee on War Claims. As the examination by your committee has led them substantially to the same results with those arrived at by the committee of the Fifty-first Congress, they do not think it necessary to recapitulate the facts, but refer to that report, and herewith annex a copy for information.

Your committee recommend that the bill referred to them do pass.

[House Report No. 1301, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3317) to indemnify the State of Pennsylvania for money expended in 1864 for militia called into the service of the United States under the proclamation of the President of June 15, 1863, respectfully submits the following report thereon:

The bill authorizes a reëxamination of said claim and payment of such amount as may be found due thereon out of the unexpended balance of the appropriation made by act of Congress approved April 12, 1866 (14 Stats., p. 32), for the payment of said claim.

A bill substantially the same passed the Senate last Congress, and was favorably reported by committees of both Houses in that Congress, who found, as shown by their reports (S. 518 and H. R. 2198, Fifty-first Congress, first session), as follows:

"(1) That the State of Pennsylvania reimbursed a committee of citizens of Philadelphia, in September, 1864, the sum of $713,419.61, for expenses incurred by them for money borrowed, at the request of the Secretary of War, and upon his promise of repayment, to pay off militia called into the service of the United States during the emergency of 1863, under the President's proclamation of June 15, 1863.

"(2) That Congress, by the act of April 12, 1866, intended to reimburse the said expenditure, and thereby provide an ample appropriation for that purpose.

"(3) That from the appropriation made by said act the Secretary of War, in June, 1866, advanced the State the sum of $667,074.35, leaving a balance due the State of $46,345.26 on account of said claim.

"(4) That an application by the State to the succeeding Secretary of War for the payment of said balance was refused upon the ground that the advance having been made by his predecessor was, so far as he was concerned, a finality, notwithstanding it was shown by the warrant issued that said payment was only intended as an advance."

Your committee find the facts to be as stated in said reports, and, concurring with the conclusion therein expressed that the State is entitled to a reëxamination of its claim and to payment of said balance, recommend the passage of the accompanying bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 168.

SARATOGA MONUMENT.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CUMMINGS, from the Committee on the Library, submitted the following

REPORT:

[To accompany H. R. 302.]

Your committee, to whom was referred the bill (H. R. 302) to appropriate $18,484.57 for the completion and dedication of the monument commemorating the surrender of Burgoyne at Saratoga, respectfully report:

The battle of Saratoga was among the most momentous in our annals. Mr. Creasy, a distinguished English writer, places Saratoga among the fifteen decisive battles of the world. It was the turning point in the Revolutionary war. The surrender of Burgoyne led to the recognition of the struggling colonies by France and Spain, to the overthrow of British tyranny, and to the achievement of American independence. Such an event is well worthy to be commemorated by an enlightened and liberty-loving people.

To this end Horatio Seymour and other patriotic citizens formed themselves, in 1859, into an organization known as the "Saratoga Monument Association," under a perpetual charter from the State of New York. They purchased several acres of land near the mouth of Fish Creek, on the high ground overlooking the meadow where the British laid down their arms, and commenced the erection of a suitable monument.

The work thus begun by patriotic citizens has been carried forward partly by private contributions and partly at the national expense. In 1881 Congress appropriated $30,000 to be used in erecting the main shaft, and in 1884 it appropriated $40,000 for statuary and historical tablets. A beautiful granite shaft has thus been erected 155 feet high. It remains to complete the monument and dedicate it. For these purposes $18,484.57 are required, as set forth in the bill.

Your committee are of the opinion that, as the object of this monument is a national and patriotic one, and in view of the fact that so much has already been done by the patriotism of private citizens, that the National Government should undertake the expenses above mentioned, and your committee respectfully recommend that the bill be passed.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 169.

MONUMENT TO THE MEMORY OF THE VICTIMS OF BRITISH PRISON SHIPS AT FORT GREENE, BROOKLYN.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CUMMINGS, from the Committee on the Library, submitted the following

REPORT:

[To accompany H. R. 297.]

The Committee on the Library, to whom was referred the bill (H. R. 297) for the erection and completion of a monument to the memory of the victims of the prison ships at Fort Greene, New York, respectully report:

A bill of similar import has been before Congress for several years, and was favorably reported to the House in the Forty-ninth, Fiftieth, and Fifty-first Congresses. The facts in the case were well set forth in Gen. Spinola's report to the Fifty-first Congress, as follows:

When Gen. Washington was compelled to retire with the American Army after the disastrous battle of Long Island, August 17, 1776, the British anchored several vessels, which had been used to transport cattle and other supplies, in Wallabout Bay, and in them imprisoned the captives taken during the remainder of the Revolution. There were ten of these ships, the most notorious being the *Old Jersey*, or "Hell," as she was euphemistically called by those who suffered the torments of the damned in that floating Golgotha.

The horrors of these ships are too revolting for description. Pestilence and starvation reigned supreme. American patriots, confined in darkness, subjected to the most horrible brutality in the annals of the Christian era, packed together between decks, fed upon the condemned food from the British fleet, frequently driven to scoop up the slops from the troughs of the pigpens on the decks above them, dying of suffocation from the foul air in summer and freezing to death in winter, their captors ghoulishly awaiting their last breath, and often tying the expiring martyrs in the winding sheets before their souls had gone to meet their Maker—such were the daily occurrences on those vessels while our forefathers were struggling for independence.

These prisoners were not criminals, but gallant American sailors and soldiers. It is almost incredible that such barbarities should have been perpetrated as undoubted testimony establishes in the history of the times.

From the gross abuse which they received and the thousands of deaths which occurred the dreadful conviction is forced upon us, as it was upon them, that the system of maltreatment, degradation, and butchery was designed to kill them off or drive them to enlist in the British service. But history discloses the fact that but one man became a traitor to the cause.

Their torturers continually implored them collectively and individually to desert their principles, offering every inducement and making terrible threats to compel them to take up arms against their country, but without avail. By every cunning artifice were they offered refuge from death by joining the King's forces. One historian notes that when they had spurned these overtures the commandant told them to go to their dungeons and rot, assured that the poor rations to be allowed to their wives and children should not be issued, and that their dying consolation might be that their families were starving.

One ship, the *Transport*, was burned with three hundred prisoners in the hold, few escaping this dreadful death.

It was a common occurrence, when the prisoners in the ships were assembled at the hatchways in summer trying to get a breath of fresh air, the reeking filth of their dungeons being intolerable, for sentinels to thrust their bayoneted guns down among the gathering, and in the morning numerous bodies mortally pierced through the head and shoulders would be picked up at the spot.

These atrocities were brought to the attention of the Continental Congress, which resulted in the adoption of resolutions of remonstrance against these cold-blooded outrages. In pursuance to the resolutions Gen. Washington wrote to the commandants of the ships calling attention to the horrors, and begging that the war be conducted with regard to the laws of humanity. These protests were unheeded, but the violence and carnage continued with all its dastardly vigor.

The bodies of the martyrs to the cause of our country's liberty were buried in shallow trenches scraped in the sands of the nearest shore, where is now the site of the United States navy-yard. For several years after the war the bones were strewn along the beach until in 1808 when they were gathered and properly buried. They now rest in thirteen enormous coffins, typifying the original States.

For three-quarters of a century their resting place has been the scene of patriotic meetings. The anniversary of American Independence is always celebrated before their sepulcher with civic and military displays.

Petitions in favor of the bill signed by 30,000 citizens of the United States, resolutions of the legislature of the State of New York, of the Kings County board of supervisors, and of the Brooklyn board of aldermen have been presented to this committee, and a memorial of the society of old Brooklynites, who have chiefly been instrumental in preserving these relics, has been considered.

The precise number of victims of the prison ships is unknown, but according to a publication, April 25, 1783, 11,644 died from barbarous treatment on the *Old Jersey* alone, and it is conservatively estimated that, including all the ships, no less than 20,000 succumbed. Congress is asked to appropriate the trifling sum of less than $10 to the memory of each of these victims of the dungeons.

Congress gave them sympathetic consideration while they lived, and Congress should show regard for their courage, virtue, and love of country now.

The bones were bequeathed to the United States Government by Benjamin Romaine, who collected them, and it is our duty to take care of them.

For a more detailed statement of the facts involved reference is made to the able and elaborate report of Gen. Maish to the Fiftieth Congress, to be found in the appendix hereto.

A monument could not be erected in a more worthy cause. The men who perished in the British prison ships at Wallabout were martyrs in the truest sense of the word. They were continually importuned by the servants of King George. They chose rather to live in agony, to die a lingering death, than to purchase freedom at the expense of their country. Can that country, bought with their blood, afford now to neglect her martyred dead?

Your committee respectfully recommend that the said bill be passed.

APPENDIX.

REPORT OF GEN. MAISH.

The Committee on Military Affairs, to whom was referred the bill (H. R. 1687) for the erection and completion of a monument to the memory of the victims of the prison ships at Fort Greene, Brooklyn, N. Y., do respectfully report:

After the battle of Brooklyn, Long Island, August 17, 1776, when the American Army under Gen. Washington was defeated and compelled to retire to the northern part of Manhattan Island, the British prison ships anchored in the Wallabout Bay were crowded with American naval prisoners who underwent experiences of a horrible nature, probably unequaled in the history of modern warfare.

Of these ships there were the *Whitby*, *Prince of Wales*, *Goodhope*, and the *Old Jersey*, or "Hell," as it was called by those who were confined in her—often more than a thousand at a time—in consequence of the sufferings they endured.

They all lay in the channel between what is now the Cob Dock and the inner shore of the bay, the *Old Jersey* being at the west side, nearly opposite what is now the west entrance to the New York navy-yard. The prisoners were crowded together in

these dismantled ships or hulks, poorly fed and badly treated, and they died by thousands. It is estimated that between 11,000 and 12,000 prisoners perished on these vessels, it being claimed that the mortality on the *Old Jersey* alone amounted to five a day.

The prison ships were originally the transport vessels in which cattle and other supplies for the British army had been brought to America in 1776, and which had been anchored in Gravesend Bay and occupied by the prisoners taken in the battle of Brooklyn. Upon the occupation of the city by the British these soldiers were transferred to the prisons on shore and the transports were devoted more especially to the marine prisoners, whose numbers were rapidly increasing, owing to the frequent capture of American privateers by the King's cruisers.

The first prison ship anchored in the Wallabout was the transport *Whitby*. She was moored near Remsen's mill, which was on the west shore of the bay, near Martyn Point, or Martyrs Hook, as it was subsequently called, about the 20th of October, 1776, and crowded with prisoners. Here the prisoners had bad provisions, worse water, and even these rations were small. No medical man attended the sick, disease had full sway, and pestilence reigned supreme. Hundreds died from pestilence or starvation, and the sand beach between the ravine in the hills—where Little street, Brooklyn, now is—and the shore became filled with graves in the course of two months.

In May, 1777, two large ships were anchored in the Wallabout, when the prisoners were transferred from the *Whitby* to them. These ships subsequently took fire, and some of the prisoners were burned in them before they could be removed to other vessels. In 1779 the *Prince of Wales* and the *Good Hope* were used as prison ships. The latter was burned in 1780, and then the *Stromboli*, *Scorpion*, and *Hunter*, all nominally hospital ships, took their place in the Wallabout. There were nearly a dozen others, but of all the *Old Jersey* won preëminence in the sad history of the prison ships. She was originally a sixty-gun ship and had a long and honorable career, but, being unfit for further active service, in 1776 was converted into a prison ship. She was dismantled, her portholes were closed and securely fastened, and their places supplied by two tiers of small holes, each about 20 inches in diameter, with two iron bars crossed at right angles. Caged in the body of this hulk, with little light and almost no fresh air, packed together like animals, poorly fed on what was sometimes spoiled and wormy food, and given water that was stagnant, the prisoners died off like flies. It was no wonder that they gave their horrible hole of suffering, pestilence, and death the nickname of "Old Hell."

The horrors of these ships are a matter of history. The foul air, confinement, darkness, hunger, thirst, the slow poison of the malarious locality, the torments of vermin, the suffocating heat in summer, the excessive cold in winter, the horrible brutality of the officers and the guards, who would frequently fire among or bayonet the prisoners for some trivial or pretended offense, the almost total absence of hope, are things too sickening to dwell upon.

At the expiration of the war the *Old Jersey* was abandoned where she lay. The dread of contagion prevented anyone venturing on board, but it was not long until the worms, which had been at work upon her timbers, made way for the water to rush in, and she went down into the waters of the Wallabout, carrying with her the only record of the names of thousands of sufferers which had been inscribed upon her inner planks.

The dead from these ships had been taken on shore and buried in trenches dug in the sand, and for years after the war their bones were found all around the bend of the bay, but more especially on the west side. We are informed by parties connected with the navy-yard that even now in making excavations they find the bones of human beings, supposed to have been victims of the prison ships.

For several years after the war was over the bones of those who suffered martyrdom in these ships for the cause of liberty were to be seen, scarce covered, on the banks of the Wallabout, or strewn upon its shores and bleaching in the winter's storm and summer's sun. Several patriotic individuals endeavored to have the attention of Congress directed to the subject, but no formal movement was made to give the bones proper interment until 1792, when the citizens of Brooklyn, at a regular town meeting, resolved that the bones which had been disinterred and collected by John Jackson should be removed and buried in the graveyard of the Reformed Church and a monument erected over them.

John Jackson was a native of Queens County, L. I., who removed to Brooklyn soon after the Revolution. About 1791 he purchased what was known as the Remsen estate, situated on the Wallabout, which comprised about 30 acres of land, 35 of pond, together with the old Remsen mill and dwelling. This farm was partly on what was known as Martyr's or Martyn's Hook, where Little street runs down to the water, and extended as far west as Gold street, and east into the navy-yard. It was in making improvements on the farm that Mr. Jackson found large quantities of the bones in cutting away the high banks which then formed the shore of the bay. In

1801 he sold 40 acres of this farm to the United States for a navy-yard, it being the west portion of the yard, north of the present York street entrance. When the committee of the town meeting above mentioned applied, in 1793, for the privilege of removing the bones Mr. Jackson refused, as he had other plans in view. He was an influential member and a sachem of the Tammany Society or Columbian Order. He offered this society an eligible piece of ground on his property in the Wallabout at a point which is now at the east end of Front street, by the navy-yard wall, for the purpose of erecting a suitable sepulcher, which the society accepted.

In 1803 a memorial to Congress was prepared and sent to Washington, but nothing was done by this body. In the meantime, Benjamin Aycrigg, shocked at the exposed condition of the remains, made a contract in 1805 with an Irishman living in the Wallabout "to collect the bones as far as may be without digging," and deliver them to him at a stipulated price, which was done, and the remains thus collected formed a portion of those afterward placed in the Tomb of the Martyrs. In 1808 the Tammany Society appointed a committee and proceeded to take steps toward the long talked-of sepulcher. They initiated an extensive correspondence, published stirring appeals, and invited patriotic citizens all over the country to make a national affair of it. The public took hold zealously, and showed so much interest that the corner stone of the tomb was laid on the 13th of April, 1808. An imposing military and civic procession formed at Fulton Ferry, under Maj. Aycrigg, grand marshal, and marched through Main, Sands, Bridge, and Jackson (now Hudson) streets, Brooklyn, to the vault on Jackson street adjoining the navy-yard. Benjamin Romaine, grand sachem of Tammany, assisted by the Wallabout committee, laid the corner stone of the vault, upon which was the inscription:

"In the name of the spirits of the departed free, sacred to the memory of American seamen, soldiers, and citizens who perished on board the prison ships of the British at the Wallabout during the Revolution.

"This is the corner stone of the vault erected by the Tammany Society, or Columbian Order, which contains their remains, the ground for which was bestowed by John Jackson, Nassau Island. Season of blossoms. Year of the discovery the 316th, of the institution the 19th, and of American Independence the 32d.

"April 6, 1808."

Ceremonies were completed by the interment of thirteen mammoth coffins, and orations by the most distinguished men of the day.

Subsequent to the interment the excitement was kept up for a while. Some money was collected, and then the Martyrs' Tomb dropped out of public notice. Stiles, in his "Wallabout Prison-Ship Series," speaking of the Tammany demonstration, gives this peroration:

"The pious tribute of the living to the dead is always solemn and affecting; a society in mourning for a hero is interesting to every one who beholds it, but a nation of freemen bending in tears over the tomb of eleven thousand martyrs to the cause of liberty is a sight never before exhibited and presents a sublime theme for the historian and the poet. Happy, happy Columbia! May returning years still find thee as thou art this day—grateful to thy heroes, the nurse of liberty, at peace with the world."

After the great procession the tomb, unfinished, was left to take care of itself.

When the grade of Jackson street was altered the walls of the vault were infringed upon, and finally the very lot with the tomb upon it, containing the moldering dust of these 11,000 heroes, was sold for taxes.

Benjamin Romaine, a true patriot, who had been a soldier in the war, came forward and bought the lot, rescuing the remains from desecration. He erected an antechamber over the vault and appropriately adorned it. This was in 1839. Mr. Romaine held the place sacred, and in order to protect it from desecration he appropriated the tomb as a burial place for himself and family. At his death, in 1844, his body was placed in a coffin which he had long kept for himself in the vault. Two years before his death a committee of citizens petitioned the legislature for leave to remove the bones for the purpose of appropriate sepulcher, but Mr. Romaine protested. He said:

"I have guarded these sacred remains, with a reverence which perhaps at this day all may not appreciate or feel, for more than thirty years. They are now in their right place, near the Wallabout and adjoining the navy-yard. They are my property. I have expended more than $900 in and about their protection and preservation. I commend them to the protection of the General Government. I bequeath them to my country. This concern is very sacred to me. It lies near my heart. I suffered with those whose bones I venerate. I fought beside them; I bled with them."

In consequence of this remonstrance nothing was done.

Ten years later a large meeting of citizens of Brooklyn resolved—

"That the time has arrived when the cities of New York and Brooklyn can not, without criminality, longer delay the necessary efforts for rearing the monument to the martyrs of the prison ships"—

and an organization was formed, entitled the "Martyrs' Monumental Association," in which each senatorial district in the State of New York and each State and Territory in the Union was represented. They set to work, selected a site on Fort Greene, secured plans for the monument, agitated the subject, and solicited donations. But once more enthusiasm died, and two more decades had almost passed before anything was done.

The common council of the city of Brooklyn having granted the association an appropriate lot on Fort Greene, called Washington Park, the site was utilized in 1873. In that year a brick vault, 25 by 11 feet, was completed in the side of the hill facing toward the junction of Myrtle avenue and Canton street, it being the nearest point toward the Wallabout. By this time the vault on Hudson avenue (formerly Jackson street) had become so dilapidated from neglect that the remains were in an exposed state, many of the old coffins being broken or defaced. Twenty-two new boxes were procured, the old coffins placed in them, and on the 17th day of June, 1873, all that remained of the mortal part of the 11,000 martyrs of the prison ships was quietly removed to the vault at Washington Park. There was no ostentation this time; it was simply a labor of love. After nearly a century of neglect, relieved occasionally by spasmodic bursts of patriotism, the bones were at last placed in a spot where it is believed they will rest undisturbed until time shall be no more. So quietly was the removal performed, and so little interest does it seem to have elicited, that the daily papers of the day did not make any mention of it. The vault was covered with asphalt and the surface restored, and there are few people in the city to-day who know where these bones lie buried. The basework of the intended ornamental stone superstructure has been constructed, upon which it is intended to erect the monument proposed by the accompanying bill.

This chosen site of Fort Greene is a lofty eminence looking down upon the Wallabout, where the prison ships were anchored; it also commands a view of the whole city of Brooklyn and the surrounding country upon which in 1776 the battle of Long Island was fought. During the battle this battery was known as Fort Putnam, in honor of Gen. Putnam, who was the immediate commander of the American Army during the illness of Gen. Greene. From this eminence Gen. George Washington, Commander-in-Chief, became the agonizing witness of the route and slaughter of Sullivan's command, and during the whole engagement directed the movements of the American Army. It was here that he signed the order to retreat, when he saw that resistance in the face of overwhelming forces was useless. On this spot he encouraged the suffering soldiers with words of hope during the last day of the battle until the night brought the fog that made retreat possible.

Immediately after this memorable retreat the British, having gained absolute possession, used Brooklyn for the incarceration of the prisoners of war.

News of the barbarous and inhuman treatment of these prisoners reached Congress in 1781, when a special committee was appointed, consisting of Mr. Boudinot, Mr. Sharpe, and Mr. Clymer, who submitted the following resolutions:

"*Resolved*, That it appears to Congress that a very large number of marine prisoners and citizens of the United States, taken by the enemy, are now close confined on board prison ships in the harbor of New York.

"That the said prison ships are so unequal in size to the number of prisoners as not to admit of a possibility of preserving life in this warm season of the year, they being crowded together in such a manner as to be in danger of suffocation, as well as exposed to every kind of putrid and pestilential disorder.

"That no circumstances of the enemy's particular situation can justify this outrage on humanity, it being contrary to the usage and custom of civilized nations thus deliberately to murder their captives in cold blood, as the enemy will not assert that prison ships equal to the number of prisoners can not be obtained so as to afford room sufficient for the necessary purposes of life.

"That the enemy do daily improve the distresses to enlist and compel many of our citizens to enter on board their ships of war, and thus to fight against their fellow-citizens and dearest connections.

"That the said marine prisoners, until they can be exchanged, should be supplied with such necessaries of clothing and provisions as can be obtained to mitigate their present sufferings.

"That therefore the Commander-in-Chief be, and is hereby, instructed to remonstrate to the proper officer within the enemy's lines on the said unjustifiable treatment of our marine prisoners, and demand in the most express terms to know the reasons of this unnecessary severity towards them; and that the Commander-in-Chief transmit such answer as may be received thereon to Congress, that decided measures for due retaliation may be adopted, if a redress of these evils is not immediately given.

"That the Commander-in-Chief be, and is hereby, instructed to direct the supplying of the said prisoners with such provisions and light clothing for their present more comfortable subsistence as may be in his power to obtain, and in such manner as he may deem most advantageous for these United States."

There is no question that these men were martyrs to the cause of liberty; that those who survived the war and were honored by the grateful care of their Government and esteemed until the close of their lives for their patriotism and valor were entitled to much less than these unfortunate victims of cruelty and hardship, and that the least that the Government can do at this time is to erect to them a monument upon which shall be inscribed a record of their service and the story of their martyrdom.

The propriety of the erection of such a monument by the nation will not be questioned in view of these facts.

These helpless victims were prisoners of war, belonging not to any city or State, but to the whole country; captured by the enemy while in the service of their country in both the Army and Navy; citizens of all the original thirteen States, and numbered more than were slain in all the battles, both by land and sea, of that long and desperate struggle for freedom.

Had these victims been less arduous in their patriotism or less firm in their devotion to liberty; had they purchased their lives by enlisting in the service of the enemy, as they were daily importuned to do, and this army of 12,000 valiant men been added to the forces against which Washington and his compatriots were fighting the struggle of our forefathers would have no doubt been greatly prolonged.

There has been laid before the committee the following concurrent resolutions relative to erection of a monument to the "martyrs of the prison ships" at the Wallabout during the Revolutionary war, passed by the senate and assembly of the State of New York February 28, 1888:

"Whereas the 'Society of Old Brooklynites,' of the city of Brooklyn, has presented a petition to the Congress of the United States for the erection of a monument to commemorate the virtues and patriotism of more than 12,000 soldiers and sailors who perished on board the prison ships at the Wallabout during the Revolutionary war; and

"Whereas those unhappy victims were citizens of the United States, prisoners of war, captured while in the service of this country during its long and desperate struggle for freedom, when the Government was too feeble to afford them protection or relieve their sufferings; Therefore,

"*Resolved* (if the assembly concur), That Senators and Representatives in Congress from this State be, and they hereby are, earnestly requested to use all honorable means in their power to secure the passage of the bill (H. R. 1687) having for its object the erection of a monument to the memory of the 'martyrs of the prison ships.'

"*Resolved* (if the assembly concur), That a duly certified copy of the foregoing preamble and resolutions be forwarded to each Senator and Representative in Congress from this State."

Also the following resolution from the Kings County board of supervisors, passed January 19, 1888:

"Whereas the 'Society of Old Brooklynites,' of the city of Brooklyn, have petitioned the Congress of the United States for an appropriation to fitly commemorate by a monument the 'martyrs of the prison ships' of the Revolutionary war; and

"Whereas this board heartily approves of the motives and patriotic zeal displayed by the said society in the noble effort to inspire devotion to country, perpetuating the virtues of those who sacrificed their lives for republican principles, thus stimulating future generations to emulate their patriotism: Therefore, be it

"*Resolved*, That the board of supervisors of Kings County does hereby approve of and indorse the honorable and praiseworthy efforts of the 'Society of Old Brooklynites' to obtain a fitting monument to be placed over the remains of those who perished at the birth of this Republic.

"*Resolved*, That we most cordially extend to the 'Society of Old Brooklynites' our earnest support and encouragement, and express the hope that their efforts will be rewarded by the people through their Representatives in Congress."

Similar resolutions were also adopted by the board of aldermen.

Also the following petition from the "Society of Old Brooklynites," who have been mainly instrumental in preserving these relics and in bringing these historical facts before this committee:

"*To the Senate and House of Representatives of the United States in Congress assembled:*

"Your petitioners, an incorporated society of the city of Brooklyn, under the title of 'The Society of Old Brooklynites,' would respectfully represent:

"That the remains of more than 11,500 martyrs to the cause of liberty lie entombed in this city, who died during our Revolutionary war, on board the prison ships of the British at the Wallabout, and which were buried on our shores during that memorable struggle, many of which were by the action of the waves washed out of their shallow graves, their bones scattered along the beach, exposed to the summer's sun and winter's storms until the year 1808, when the Tammany Society, or Colum-

bian Order, of the city of New York, had them collected and buried with imposing ceremonies, in which the governors of several States, mayors of cities, and civil, military, and ecclesiastical dignitaries from all parts of the country took part."

"The place of burial was on Jackson street in this city, and the tomb—a temporary wooden structure, in which they were placed—became so dilapidated—by reason of changes made in the surroundings and from natural decay, that the sacred remains were again exposed to the gaze of the multitude, until the park commissoners of this city, with the sanction of the city government, prepared with great care and expense a permanent and imperishable tomb for their reception on the historic ground of Fort Greene—a charming elevation in Washington Park in this city, overlooking the scene of their sufferings and death—to which the sacred remains were cheerfully removed and deposited.

"These devoted patriots, from every one of the original thirteen States, were prisoners of war, taken by the British army and navy, and numbered more than were killed in all the battles, both by sea and land, in that long and desperate struggle for freedom.

"When it is remembered that constant and unremitting efforts were made by the British officers to induce these prisoners to purchase their freedom and save their lives by enlisting in the service of the enemy; that many, probably the majority of them, had families who were suffering by reason of their absence; that to remain in these horrible prisons was almost certain death; and that under all these circumstances they remained faithful to the cause in which they had enlisted, and preferred death to dishonor, we must concede that they earned the title of Martyrs of the Prison Ships, and deserve such recognition from the Government, to aid in the establishment of which they sacrificed their lives, as will show to the world that republics are not ungrateful, but that we cherish their memories, honor their devotion to their country, and will erect such an enduring monument to commemorate their virtues as will stimulate future generations to emulate their patriotism.

"We, therefore, most respectfully ask that your honorable body will make an appropriation of not less than $100,000 toward the erection of a suitable monument to be erected at or near the spot where their sacred remains now lie, the site for which will be donated for that purpose by the city of Brooklyn.

"This society will most cheerfully give all the aid in their power toward the accomplishment of the object of this petition."

Also the following petition, signed by 25,000 citizens of the United States:

"*To the Senate and House of Representatives of the United States in Congress assembled:*

"Your petitioners, citizens of the United States, do respectfully and earnestly pray your honorable body to hear and grant the petition of the Society of Old Brooklynites and to cause the erection of the long-delayed monument to the martyrs of the prison ships."

Your committee therefore recommend that the bill do pass with the following amendment:

"*Provided*, That the money appropriated as aforesaid shall be expended under the direction of the Secretary of War, and the plans, specifications, and design shall first be approved by him."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 170.

JUDGMENTS RENDERED IN THE UNITED STATES COURTS.

FEBRUARY 5, 1892.—Laid on the table and ordered to be printed.

Mr. OATES, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 3733.]

The Committee on the Judiciary, having had under consideration the bill (H. R. 3733) entitled "A bill providing the judgments rendered in the United States court shall not be a lien on real estate in any other county than the one in which the court is situate, unless a transcript of the judgment be first filed in such county," report adversely thereto, for the following reasons:

The committee find that the act of August 1, 1888, of the Fiftieth Congress, first session, page 357, sufficiently provides a remedy for the supposed evil at which the bill was directed. That act makes the judgments of the United States courts liens upon the property of the defendants therein to the same extent and in the same manner that the judgments of the State courts of record are liens upon such property, and not otherwise.

The question made by the bill was considered by the House of Representatives in all its aspects when that act was passed, and that act is doubtless the most satisfactory one which could be adopted.

The committee therefore deem further legislation unnecessary, and report the bill back to the House with the recommendation that it be laid on the table.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 171.

LINEAL PROMOTION OF ARMY OFFICERS.

FEBRUARY 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. OUTHWAITE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 328.]

The Committee on Military Affairs, to whom was referred the bills (H. R. 3605 and H. R. 328) concerning lineal promotion of officers in the several lines of the Army, submit the following report:

The committee recommends that bill H. R. 3605 lie upon the table, because it is substantially the same as one of the amendment to bill H. R. 328, the passage of which is herein recommended, with certain amendments.

The committee recommends that the title be amended by adding the words, "of the Army;" it also recommends that the same words be inserted after the word infantry, in the fourth line, and that a second section be added to the bill as follows:

SEC. 2. That so much of section one of an act dated October first, eighteen hundred and ninety, entitled "An act to provide for the examination of certain officers of the Army, and to regulate promotions therein," as is contained in the proviso of the said section, is hereby repealed.

Under the report of the Secretary of War for the year 1891, on page 21, we find the following concerning lineal promotion in the Army:

Section 1, of the act of October 1, 1890, provides that promotions in each arm of the service shall be according to seniority in the next lower grade, except that first lieutenants in commission when the law became operative were, by an amendment to the bill, excepted from this provision. The apparent object of the exception was that certain inequalities that had arisen in promotions from second to first lieutenancies under the old system of regimental promotion might, perhaps, be rectified by the accidental fluctuations possible in future promotions to captaincies. It was an effort to cure *an evil* by its continuance.

The expectation with regard to the proviso depends largely upon chance, and is to a great extent fallacious. The disadvantages of the regimental system are made more apparent when applied to only one class of officers, and especially so when contrasted with the uniform and just results which are obtained in all other grades of the Army. For example, since the passage of the above act first lieutenants of cavalry have been promoted to be captains that stood thirty-seventh, forty-second, and sixty-first, respectively, on the Army Register at the date of their promotions. In the artillery first lieutenants have been promoted that stood eighteenth, twentieth, and twenty-third, respectively, and in the infantry those that stood *only one hundred and sixtieth, one hundred and sixty-third, and two hundred and ninth in the lineal list of lieutenants of that arm of the service.* The exception should be repealed and the law made to apply uniformly to all.

The foregoing extract does not state too forcibly the evil resulting from the existing system of promotion. It must result in discontent and a sense of injustice which can not but bring evil to the discipline and harmony of the Army. This bill now reported by the Committee

on Military Affairs does remedy the evil to some degree—in fact, as far as it can be remedied. There is no power in Congress to replace the officers in their ranks where they were before the act of October 1, 1890, so that the officers who were enabled by that act to be promoted over their fellow officers, as shown by the report of the Secretary of War as above, must retain their rank. But this bill will prevent any more such incidents occurring, and will leave those officers in possession of the rank thus attained until time sets the matter even. In other words, the officer who stood 209th on the list, and received his promotion some ten years before he was justly entitled to it, will, by the operations of this bill, continue to enjoy the benefits of the vested rank, but when promotion to major comes, under this bill, those whom he has now passed over will regain their rightful place, and the fortunate one will also gain his majority exactly as if he had gone up in the regular manner, but after having enjoyed the benefits of his vested rank for ten years.

This bill will deprive no officer of his present vested rights, but it will in due course of time revest in their original rights those who have been deprived of them by the accidents of the service, and entirely without fault on their part.

The following table will serve to illustrate how the present system works in the matter of promotions. It does not present an existing condition, but one that might have actually existed among some of the officers of the artillery:

Seniority by length of service.	Rank under present system.	Name.	Original entry.
No. 1	No. 1	Col. Mendenhall	July 1, 1851
No. 2	No. 4	Col. Livingston	July 1, 1853
No. 3	No. 17	Maj. Sinclair	July 1, 1853
No. 4	No. 1	Col. Clonon	July 1, 1854
No. 5	No. 3	Col. Langdon	Do.
No. 6	No. 5	Col. Graham	June 7, 1855
No. 7	No. 7	Lieut. Col. Loder	July 1, 1856
No. 8	No. 9	Lieut. Col. Bainbridge	Do.
No. 9	No. 11	Maj. Wildrich	July 1, 1857
No. 10	No. 13	Lieut. Col. Frank	July 1, 1858
No. 11	No. 13	Maj. Miller	Do.
No. 12	No. 10	Lieut. Col. Jackson	July 1, 1859
No. 13	No. 7	Lieut. Col. Gunther	Sept. 13, 1859
No. 14	No. 12	Maj. Pennington	July 1, 1860
No. 15	No. 14	Maj. Rogers	May 6, 1861
No. 16	No. 18	Maj. Harbronch	Do.
No. 17	No. 19	Maj. Rawls	Do.
No. 18	No. 27	Maj. Randolph	May 14, 1861
No. 19	No. 27	Capt. Brewerton	Do.
No. 20	No. 29	Capt. Rodney	Do.
No. 21	No. 32	Capt. Kinzie	Do.
No. 22	No. 36	Capt. Brinckle	Do.

It will be seen by this table that Maj. Sinclair should by seniority be the third colonel on the list, while instead he is only a major, seventeenth in order of rank, and with so many above him, as there are, younger than himself that he may never reach the rank of colonel at all. Thus the law would not only deprive the officer of his grade at the proper time in his youth, but also, what is of far more consequence, it deprives him of the rank to which he should be justly entitled in his old age, and after forty or more years of service. As to the working of the bill now proposed, according to the table, Col. Mendenhall is the first to retire. Lieut. Col. Loder is the senior both by seniority of service and by rank, and should be promoted; then Maj. Sinclair by virtue of

his length of service would be promoted to be lieutenant-colonel, and Capt. Brewertown to be major, etc.

Again referring to the table, Col. Langdon should retire next, when Lieut. Col. Sinclair, by virtue of seniority of service, would at last get his colonelcy, but at the foot of the list of colonels, instead of being second. This is all he could ever get. Maj. Wildrich should get his promotion in due order, and also Capt. Rodney.

Thus in due course of time the act will secure to every officer his rightful place in the service, and without disturbing any officer in his so-called vested rank, and which many of them have held for many years, if the bill under consideration should become a law.

The committee therefore recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 172.

PAY OF PRIVATES OF HOSPITAL CORPS OF THE ARMY.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. OUTHWAITE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 329.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 329) concerning pay of privates of the Hospital Corps, submit the following report:

The bill is intended to amend the act approved March 1, 1887, which created the Hospital Corps of the Army.

The purpose and effect of this bill are sufficiently indicated and ably described in the accompanying letter from the Surgeon-General of the Army, dated Washington, February 2, 1892, and directed to the Secretary of War, and by him transferred to the chairman of this committee. From that letter it will appear that prior to March 1, 1887, the duty of privates of the Hospital Corps was performed by enlisted men, usually privates detailed from the line. When serving on such detail they received, in addition to their regular pay of $13 per month and the clothing allowance of $3.68 per month, extra-duty pay of 35 cents per day, equaling $10.50 per month, and making their aggregate pay $27.18 per month. The pay of privates of the Hospital Corps, who have the same duty to perform, is fixed by existing law at only $13 per month, the same as the pay of privates in the line, together with the clothing allowance of $3.68, making their total monthly pay only $16.68, out of which small compensation they are required to furnish themselves with the new uniform adopted for the corps. The result is to deprive them of $10.32 per month to which they would have been entitled, and justly so, had the act of March 1, 1887, not been passed. The committee recommend that the word "nineteen" in line nine of the bill be stricken out and the word eighteen be inserted.

Your committee can not believe that said act was intended to have such an effect as is shown by the letter of the Surgeon-General, because these men, in addition to being required to work at all hours, both by day and night, in the most disagreeable and often times dangerous duties, are deprived of many of the privileges and recreations of ordinary soldiers.

This bill was reported favorably in the last House and in the House of the Fiftieth Congress, and was passed twice by the Senate, and as it appears to your committee to be a measure of only partial justice, they recommend that the bill do pass as amended.

All of which is respectfully submitted.

WAR DEPARTMENT, SURGEON-GENERAL'S OFFICE,
Washington, February 2, 1892.

SIR: In reply to the request of the House of Representatives Committee on Military Affairs respecting the bill H. R 329, Fifty-second Congress, first session, relating to the Hospital Corps of the Army, I have the honor to state that the bill in question meets my unqualified approval, for the reason that the pay of privates of the Hospital Corps as now fixed by law is much less than that heretofore given to enlisted men who were detailed on extra duty for the performance of this service, and is not commensurate with the duties required of them. It has produced dissatisfaction and discontent among the men and has impaired the efficiency of the corps. Prior to the organization under the act in question, the cooking and nursing for the sick in hospital were performed by enlisted men detailed for that purpose from the companies serving at the post; these men received the regular pay of a soldier, viz, $13 per month and their clothing allowance of $3.68, amounting to $16.68, and in addition thereto an extra pay of 35 cents a day, equaling $10.50 a month, making their aggregate pay $27.18 per month.

The present pay of the privates of the Hospital Corps is $13 per month, with an allowance for clothing, the actual money value of which is $3.86. They are not entitled to any extra-duty pay; their total monthly pay, therefore, is $16.86, out of which they are required to provide themselves with the uniform adopted for the corps. The practical effect of so much of the act as fixes the pay of the privates of the Hospital Corps has been to deprive them of $10.32 per month of pay to which it would seem that they are justly entitled.

The annual appropriations made by Congress up to June 30, 1888, for extra-duty pay to hospital attendants was $70,000; the amount required under the proposed amendment is but $43,800.

It does not seem probable that Congress intended when fixing the present rate of pay for privates of the Hospital Corps that they should be required to perform the duties of their position for nearly one-half less of pay than had been given to privates of the line when detailed as hospital attendants. Should the increase of pay now recommended be granted, the total amount which they will receive will still be less by about $4.32 per month than was received by former hospital attendants. But it will, however, be sufficient, in my judgment, to compensate the men for the service they render, and I am satisfied that such action on the part of Congress will greatly benefit the interests of the service and promote the efficiency of the Hospital Corps.

In both the Fiftieth and the Fifty-first Congresses bills identical with this were passed in the Senate, and in both Congresses favorably reported in the House of Representatives.

The copy of the bill inclosed is herewith returned.

Very respectfully,

C. SUTHERLAND,
Surgeon-General, U. S. Army.

The SECRETARY OF WAR.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 173.

TRANSPORTATION OF DUTIABLE MERCHANDISE.

FEBRUARY 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. MONTGOMERY, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany S. 1183.]

The Committee on Ways and Means, to whom was referred House bill 321 to extend the privileges of the transportation of dutiable merchandise without appraisment to the port of Sandusky, Ohio, also Senate bill 1183 for the same purpose, have had the same under consideration, and beg leave to submit the following report:

Sandusky, Ohio, has a population of about 25,000, is an important lake port, with an extensive commerce, large manufacturing interests, United States post-office and customs building, and as no expense to the United States is involved by the passage of the bill, as appears from the letter of the Acting Secretary of the Teasury appended, your committee recommend the passage of Senate bill 1183 as a substitute for H. R. 321.

The letter of the Acting Secretary of the Treasury is made part of this report.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 4, 1892.

SIR: I have the honor to acknowledge the receipt from your committee of a communication, dated the 23d ultimo, with which was transmitted for an expression of my views thereon copy of Senate bill 1183, having for its object the extension of the privileges of the seventh section of the act approved June 10, 1880, governing the transportation of dutiable merchandise without appraisement to the port of Sandusky, Ohio, and in reply to say that as no expense appears to be involved in the proposed action, this Department sees no objection to the passage of the bill.

Respectfully yours,

O. L. SPAULDING,
Acting Secretary.

Hon. WILLIAM P. FRYE,
Chairman Committee on Commerce, United States Senate.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 174.

POWER TO GRANT PARDONS, ETC.

FEBRUARY 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. HEMPHILL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 4429.]

The Committee on the District of Columbia, to whom was referred House bill No. 4429, entitled a bill "To empower the Commissioners of the District of Columbia to grant respites and pardons in certain cases," has considered the same and reports it back to the House with the recommendation that it do pass.

The letter of the Commissioners, hereto appended, and made part of this report, gives the general reasons for the passage of the bill.

WASHINGTON, *January 20, 1892.*

SIR: The Commissioners have the honor to transmit herewith draft of a bill to authorize the Commissioners to grant pardons and respites for offenses the punishment for which is commitment to the municipal workhouse in default of the payment of the fine. The object of this bill is to confer on the Commissioners the power possessed by the executives of the former municipal corporations which were in force in this District prior to the establishment of a single government for the District of Columbia. The law which abolished those corporations continued in force all valid laws and ordinances which those corporations had enacted, but did not transmit to the Commissioners the power to grant respites and pardons for offenses against those laws and ordinances. The lack of this power prevents the Commissioners from exercising executive clemency in many cases where it is obviously in the interest of public morals and justice to abate such sentences or diminish their severity.

Respectfully,

J. W. DOUGLASS,
President.

Hon. J. J. HEMPHILL,
Chairman House Committee on the District of Columbia.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 175.

NATIONAL SAFE DEPOSIT COMPANY, WASHINGTON, D. C.

FEBRUARY 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. HEMPHILL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 4107.]

The Committee on the District of Columbia, to whom was referred House bill No. 4107, "To change the corporate name of the National Safe Deposit Company of Washington," has considered the same and reports it back to the House with the recommendation that it do pass.

The bill simply authorizes this company to embrace in its title the new powers conferred upon it by the recent act of Congress.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 176.

UNITED STATES COURTS IN WISCONSIN.

FEBRUARY 5, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. STOCKDALE, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 497.]

This bill proposes to change the time of holding the circuit and district courts of the United States at Oshkosh, in the eastern district of the State of Wisconsin, from July to the second Tuesday of June in each year. The courts are now held in Milwaukee on the first Monday in January and October in each year, and Oshkosh in July in each year. No change of the time of holding the courts in Milwaukee is provided, but in Oshkosh the temperature is so high in July that but little business can be or has been done for years. The judge of the court writes that for years the court there has been of but little value. In June the weather is pleasant and the business of the court can be done with comfort to the court and bar and the people.

The committee report the bill back to the House and recommend that it pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 177.

WILLIAM E. WOODBRIDGE.

FEBRUARY 6, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1306.]

The Committee on War Claims, to whom was referred the bill (H. R. 1306) referring to the Court of Claims the claim of William E. Woodbridge for compensation for the use by the United States of his invention relating to projectiles, for which letters patent were ordered to issue to him March 25, 1852, having considered the same and accompanying papers, submit the following report:

Dr. Woodbridge's invention consisted in applying to a projectile to be fired from a rifled cannon a ring or sabot of soft metal for the purpose of giving to the projectile a rotary motion.

The iron projectile was of an elongated ovoid form, and the rear section, from a point near the center to a point near the rear end, was surrounded by a soft metal collar, cylindrical on its outer surface, but its inner surface fitting closely to the iron projectile.

The operation is thus described in the specification:

> A suitable charge of powder is to be introduced into the gun, and the ball and rifling placed in the position represented in Fig. 1, the rear of the ball being in contact with the charge of powder. The surface of the rifle ring exposed to the action of the gases formed by the inflammation of the powder being much greater in proportion to its inertia than that of the ball, the ring is driven forcibly forward upon the ball, so as to embrace it tightly and thus impart the rifle motion which itself has received from the grooves of the gun; and at the same time it is stretched to fill the bore of the gun completely, thus destroying the windage, and causing the ball to advance strictly in the line of the axis of the bore.

The application was filed February 11, 1852, and a patent was allowed and ordered to be issued on the 25th of March following. Two days previously to the allowance of a patent Woodbridge wrote to the Commissioner of Patents requesting that upon the issue or order to issue of a patent it might be filed in the secret archives of the office, in order that his ability to take out a patent in a foreign country might not be affected by the publication of the invention. To this letter the office replied on the 15th of April, 1852, informing Woodbridge that a patent had been ordered to issue on his application, and that, in accordance with his request, the papers had been filed among the secret archives of the office, *subject to his directions as to the time of issuing the same.* He had performed every requirement of the law, and no further payment was necessary for the issue of his patent, which depended thereafter on the Patent Office alone.

Not only had Woodbridge at this time taken means to secure his invention by patent, but had brought his invention to the knowledge of

the proper department of the Government and conducted a series of experiments with it at Fortress Monroe, of which detailed reports have been furnished the committee by the War Department. These experiments showed the superiority in respect of accuracy and penetration, now so well known, to be obtained by the use of rifled cannon with suitable projectiles, and the practicability of exploding shells by means of percussion fuses.

Dr. Woodbridge, relying on the action and statement of Commissioner Ewbank, above recited, did not call for the issue of his patent until December 31, 1861, when he addressed a letter to the Commissioner of Patents, calling attention to the case, and requesting the issue of the patent. During the interim a new Commissioner had been appointed, and changes in the rules adopted for the administration of business.

In answer to Woodbridge's last letter the Commissioner replied that the length of time he had allowed his invention to slumber was a bar to the grant of a patent, and referred to the thirty-fourth section of the printed rules, which prescribes that—

> No application upon which a patent has been ordered to issue shall be retained in the secret archives more than six months from the day on which the patent was ordered to issue.

On receipt of this decision Dr. Woodbridge addressed the Commissioner as follows:

> A letter from the Commissioner dated April 15, 1852, says, referring to my application, "a patent was ordered to issue thereon," and "the papers were filed in the secret archives of the office, subject to your directions as to the time of issuing the same," from which it appears to be the deliberate conclusion of the Commissioner that I should be permitted to receive my patent at such indefinite time thereafter as I might call for it.
>
> If, therefore, it be granted that I have committed an error in leaving my patent so long uncalled for, I have certainly been led into it by the action of the office itself, and if the results should entail inconvenience on anyone the responsibility, it appears to me, must rest on the office rather than on me.
>
> * * * * * * *
>
> I must object to any disturbance of the decision of Commissioner Ewbank, as announced in his letter of April 15, 1852, such action being contrary to the rule of the office, which declares that "a decision deliberately made and approved by one Commissioner will not be disturbed by his successor." (See section 38 of Rules of Patent Office.) * * *
>
> Judge Dunlop, in the case of Larrowes and Simpson's appeals, to which I respectfully refer if there should be any doubt as to the obligation of the rule, clearly expresses the opinion that the Commissioner has *no* right to reverse the decision of his predecessor.

To establish the date when section 34 of the printed rules went into operation, the House Committee on Patents of the Forty-eighth Congress, first session, under date of April 29, 1884, asked the Department of the Interior for the information, to which the Department replied as follows:

> DEPARTMENT OF THE INTERIOR,
> *Washington, May 3, 1884.*
>
> SIR: Referring to your letter of the 20th ultimo, requesting certain information in connection with House bill 2859, for the relief of William E. Woodbridge, you are informed that the Commissioner of Patents, to whom the matter has been referred, reports that Rule 34 of the "Rules of Practice of the Patent Office" went into effect in 1854, but that the exact date can not be more accurately fixed.
>
> A copy of your letter is inclosed at the request of Gen. McBride.
>
> Very respectfully,
>
> H. M. TELLER,
> *Secretary.*
>
> Hon. L. E. ATKINSON,
> *Chairman Subcommittee of Patents, House of Representatives.*

The Secretary's letter shows that rule 34 of the "Rules of Practice of the Patent Office" went into force in 1854. Said rule certainly had no application to Woodbridge on the 15th of April, 1852, when Commissioner Ewbank informed Woodbridge that

A patent had been ordered to issue on his application, and that, in accordance with his request, the papers had been filed among the secret archives of the office, *subject to his directions as to the time of issuing the same.*

The Supreme Court of the United States, in the case of Campbell *v.* James, United States postmaster, decided January 9, 1882, settle the law most conclusively between the United States and its citizens on the subject of property in invention. The court says:

That the Government of the United States, when it grants letters patent for a new invention of discovery in the arts, confers upon the patentee an exclusive property in the patented invention, which can not be appropriated or used by the Government itself without *just compensation* any more than it can appropriate or use without compensation land which has been patented to a private purchaser, we have no doubt. The Constitution gives to Congress power "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries," which could not be effected if the Government had a reserved right to publish such writings or to use such inventions without the consent of the owner. Many inventions relate to subjects which can only be properly used by the Government, such as explosive shells, rams, and submarine batteries, to be attached to armed vessels. If it could use such inventions without compensation, the inventors could get no return at all for their discoveries and experiments. It has been the general practice when inventions have been made which are desirable for Government use either for the Government to purchase them from the inventors and use them as secrets of the proper department, or, if a patent is granted, to pay the patentee a *fair compensation* for their use. The United States has no such prerogative as that which is claimed by the sovereigns of England, by which it can reserve to itself, either expressly or by implication, a superior dominion and use in that which it grants by letters patent to those who entitle themselves to such grants.

The Government of the United States, as well as the citizens, *is subject to the Constitution* and when it grants a patent the grantee is entitled to it as a matter of right, and does not receive it, as was originally supposed to be the case in England, as a matter of grace, and favor. (104 U. S. 356, and this case is cited with approbation by Walker on Patents, p. 107.)

The decision fully supports the justice of Dr. Woodbridge's claim for compensation for the use by the United States of his invention.

Nothing seems to have been wanting on the part of the inventor to make the invention available to the Government. He early conveyed to the proper department a practical knowledge of his invention and made strenuous efforts to introduce it into service, seeking, also, Congressional aid to extend its application to guns of the largest caliber. Though the invention had appeared too early to be at once appreciated, he had made it available for all subsequent time.

Modifications of Woodbridge's projectile might be, and doubtless were, patented by others, but it is obvious that only the *modification* could be the subject of a valid patent, and that it could not in any way restrict the use of the invention in any other form. In no other way could the Government have been more fully protected against false or invalid claims for its use than by the recited acts of the inventor.

The passage by Congress of a bill for Woodbridge's relief is strongly recommended, as will be seen from the appended letters, by the honorable Secretary of War and by the Chief of Ordnance.

A bill substantially the same as that now under consideration has been favorably reported unanimously by committees of the House during the Forty-eighth, Forty-ninth, Fiftieth, and Fifty-first Congresses, which failed through lack of time.

It is evident to the committee that Dr. Woodbridge's invention was

used by the Government, and they believe that both justice and sound policy require that he be duly compensated for its use. He has thus far received no remuneration.

Such a reference to the Court of Claims as he seeks seems eminently just, and the committee unanimously report the accompanying bill with the recommendation that it pass.

APPENDIX.

WAR DEPARTMENT,
Washington City, February 2, 1884.

SIR: I have the honor to acknowledge the receipt of your communication of the 21st ultimo, inclosing H. R. 2859, being for compensation to William E. Woodbridge for the use of his invention relating to projectiles for rifled cannon and asking the views of this Department thereon.

In reply I beg to advise you that your letter, with its inclosure, was duly referred to the Chief of Ordnance, and I inclose herewith a copy of his report, of January 31, 1884, together with copies of all papers on file in his office relative to the trial of the Woodbridge projectile at Fort Monroe in 1850, and a report on the same subject by Major Mordecai, of the Ordnance Department. This report, with its inclosures, it is believed, covers all the information at the disposal of the Department upon the subject, and the views of the Chief of Ordnance as expressed in his said report are concurred in by me.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. ROBERT B. VANCE,
Chairman Committee on Patents, House of Representatives.

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, D. C., January 31, 1884.

SIR: I have the honor to return letter from Hon. R. B. Vance, chairman House Committee on Patents, requesting the views of the honorable Secretary of War on the inclosed bill (H. R. 2859) "for the relief of William E. Woodbridge," who claims compensation for the use of his invention relating to projectiles for rifled cannon, and to report.

Inclosed please find copies of all the papers on the files of this office, being reports from Col. Huger, Ordnance Department, of the trial of the Woodbridge projectile at Fort Monroe in 1850, and a report on the same subject from Maj. Mordecai, Ordnance Department. It seems plain from these papers that the invention was a novelty to these officers, both highly distinguished ordnance officers of our Army, and well acquainted with all inventions and improvements relating to gunnery.

In a pamphlet printed by Dr. William E. Woodbridge in 1852, entitled "A plan for increasing the efficiency of cannon by giving the rifle motion to cannon projectiles," he says:

"The invention, which it is the design of this paper to notice, consists in the construction and application of a ring or sabot of extensible metal to be applied to the rear of a projectile, and to be fired from a rifle-grooved gun."

And again he says, describing the sabot:

"Its rear end is grooved in order that the thinner portions may act *valvularly* to prevent the escape of the gases between it and the sides of the bore and projectile."

The object as stated, and the groove to act valvularly, would seem to embody the principles involved in most of the projectiles used since 1852, and known as the expanding. There can be no doubt that Dr. Woodbridge was first, or among the first, in this field of invention, and the passage of the bill for his relief is strongly recommended.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

The Hon. SECRETARY OF WAR.

[*Pamphlet referred to by the Chief of Ordnance in his letter to the Secretary of War, dated January 31, 1884.*]

A PLAN FOR INCREASING THE EFFICIENCY OF CANNON BY GIVING THE RIFLE MOTION TO CANNON PROJECTILES, BY WILLIAM E. WOODBRIDGE, 1852.

The effects of artillery are so far relied upon as a means of success in military operations that any improvement in cannon or their ammunition is a matter of very considerable importance.

The improvements in this department during the last fifty years have been such as greatly to enhance the efficiency of artillery, and are chiefly the result of extended experiments in Europe and this country, which have done much to remove the empirical notions formerly prevalent among artillerists, and to establish principles which will ever form a part of scientific gunnery. The attention, however, of scientific men has been mainly devoted to the improvement of the plans already in use, while those who have sought to add to the efficiency of firearms by invention too generally neglected sufficiently to consider the principles involved, or the applicability of their machines for use in the circumstances for which they are intended.

The advantage of giving to a ball a motion of rotation about its axis corresponding with the axis of the bore of the gun, or, as it is commonly called, the rifle motion, has long been known and used in small arms; and the rifle, though unused in military service until adopted by the Americans in the Revolutionary war, has now extended its use to nearly every civilized nation.

The idea of giving the rifle motion to cannon projectiles seems to have been entertained as early as the year 1774, and though many trials have been made since that time, they have hitherto (unless we except those mentioned herein) been useful rather in pointing out the true difficulties to be overcome, and in exhausting the fanciful expedients which have been proposed, than in furnishing any really feasible plan.

The design of the earlier experimenters seems to have been confined to the correction of the deviations produced by the resistance of the atmosphere and the irregular motions of rotation usually acquired by cannon balls within the gun; but the fact, long since well ascertained in relation to small arms, that an elongated ball. if projected with the rifle motion, might be made to retain the same end foremost during its flight encouraged the idea that the same might be the result in relation to cannon balls, and has given increased importance to the attainment of a practiable plan for giving them the rifle motion. It would necessarily allow the use of balls of a form much less resisted by the air than spherical balls of the same weight, and would enable us to explode shells by percussion against the object at which they are fired.

The invention which it is the design of this paper to notice consists in the construction and application of a ring or sabot of extensible metal to be applied to the rear of a projectile, and to be fired from a rifle-grooved gun.

In the accompanying drawings, Fig. 1* represents the section of a portion of the cannon through its axis, with the projectile and ring or sabot in position, A being the cannon, B the ball, and *c* the sabot.

The same view of the projectile and sabot is given in Figs. 3 and 4. Fig. 5 is an end view of the sabot. Fig. 2 is a transverse section of the cannon, showing the form and position of the grooves (*e e*), which should be equidistant. The dotted lines *e e*, Fig. 1, also show the depth of the grooves.

The projectile, which is of cast iron, is ovoid in form, pointed at the forward end. The sabot is a ring of metal softer than the projectile or cannon, and capable of extension without rupture, whose exterior surface has the form of the bore, but which is sufficiently smaller than the bore to enter the gun freely without extraordinary cleaning; and the inner surface of which fits the surface of the projectile in the rear of its greatest diameter. Its rear end is grooved, as shown in Fig. 4, in order that the thinner portions may act *valvularly* to prevent the escape of the gases between it and the sides of the bore and projectile. This sabot may be cast of a composition of zinc and tin, or of lead, tin, and copper, in iron or brass molds.

The sabot should be driven on the projectile in the laboratory, and care should be taken to see that the valvular portion of the sabot fits the projectile closely.

A suitable charge of powder is to be introduced into the gun, and the projectile and sabot placed in the position represented in Fig. 1.

The surface of the sabot exposed to the action of the gases formed by the inflammation of the powder being much greater in proportion to its inertia than that of the ball, the sabot is driven forcibly forward upon the ball so as to embrace it tightly and thus impart the rifle motion which itself receives from the grooves of the gun; and at the same time it is stretched to fill the bore of the gun completely, thus destroying the windage and causing the ball to advance strictly in the line of the axis of the bore.

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*The plates are omitted from this appendix.

The change in the form of the sabot, produced by the pressure of the gases, is illustrated by Fig. 6, which is a somewhat exaggerated representation of the sabot after firing, the dotted line showing its form before firing. The degree of alteration in the form of the sabot is dependent upon the difference of the diameter of the sabot and of the bore of the gun.

The rifle motion is not by this means communicated to the projectile strictly instantaneouly, but somewhat gradually, the sabot turning a little upon the projectile during the first instants of their motion, though its hold upon the projectile is maintained so long as they receive the pressure of the gases. It is obvious that when the rifle motion is thus imparted in a *succession of instants* rather than *instantaneously*, the stress upon the projections of the sabot or grooves of the gun will be much less in any one of these short periods of time than it would be if the whole effect were produced in the same short period.

This is a peculiarity of great importance, as it obviates the great defects of the only modes of giving the rifle motion to heavy iron projectiles hitherto proposed, which are worthy of mention, namely, the attachment of projections of a soft metal to enter the grooves of the gun, and the casting of similar projections as a part of the projectile itself. The chief defect of the first of these modes is that the projections are generally stripped from their attachments by the shock to which they are exposed, and consequently the projectiles fail to take the rifle motion, and every modification of the latter mode must result in the rapid abrasion of the sides of the grooves of the gun when the projectile commences its motion, causing increased resistance to the motion of the projectile and great danger of bursting the gun.

The shells may be packed for transportation in the manner which will be understood from Fig. 7.

By permission of the Secretary of War some experiments were made in the autumn of 1850 to test the practicability of giving the rifle motion to cannon projectiles in the manner described.

The gun made use of was a bronze 6-pounder of 14 calibers length, weighing 809 pounds. It was rifled at Washington Arsenal. The shells were cast at a foundry in Washington, but owing to the want of suitable flasks for the purpose they were irregular in thickness. The experiments were made at Fort Monroe, Old Point Comfort, Va. The gun was mounted on a field carriage, and fired from a siege-gun platform.

The first three fires were made principally for the purpose of ascertaining the proper lengths to be given to the sabots. The shells had their fuse holes stopped with iron plugs. They were aimed by an officer of much skill and experience.

(1) *Firing to ascertain proper length of sabots.*

Number.	Weight of charge.		Elevation.	Range.		Lateral deviations.	
	Powder.	Shell and sabot.		First graze.	Extreme.	Right.	Left.
	Pound.	*Lbs. oz.*	°	*Yards.*		*Feet.*	*Feet.*
1	1	10 6	3	975	.....	18	69
2	1	10 6	3	1,089	.....	.....	.....
3	1	10 6	3	866	.....	.....	45
Mean	1	10 6	3	976	.....	44	.....

The great deviations show that the rifled motion was not properly given to the projectiles, though it is probable, from the helical course of their flight, that they made three or four revolutions on their own axis before striking.

The sabots were all recovered, and the examination proved them to have been too long.

For the next six fires the shells, which were of irregular thickness, were filled with tin, to give them as nearly as possible the character of solid shot. In accordance with the indications of the first three fires, the sabots were reduced to the length shown in Plate 4. The shells and sabots were each marked with a number and the position of the sabots on the shells was marked by corresponding lines on each.

The following table shows the result:

(2) *First six rounds with reduced sabot.*

Number.	Weight of charge.		Elevation.	Range.		Lateral deviations.	
	Powder.	Shell and sabot.		First graze.	Extreme.	Right.	Left.
	Pound.	*Lbs. oz.*	°	*Yards.*		*Ft. in.*	*Ft. in.*
1	1	11 15.7	2	834	Not found.	7 1	.....
2	1	11 13.5	2	763	Not found.	6	.....
3	1	11 11.6	2	817	1,800 yds.	.....	1 11
4	1	12 9.7	2	770	1,650 yds.	9	.....
5	1	12 9.8	2	748	1,520 yds.	.....	5 2
6	1	12 8.1	2	687	1,800 yds.	.....	5 3
Mean	1	12 3.4	2	770	1,642 yds.	3 feet 5.33 inches.	

A comparison of the deviations in this table with those of the former well indicates the result of giving the projectiles the rifle motion.

Each of the four shells found was much scratched on one side of the forward end, having struck on a gravelly portion of the beach.

The sabots were knocked off from three of them (Nos. 4, 5, and 6) at the first contact of the shell with the ground; No. 3 retained its sabot to its extreme range. The sabot was found to be driven on the shell about 0.15 inch, and rotated about 4½ degrees, sufficiently to correspond with the twist of the rifling in about 6½ inches of the bore. It is obvious that the forward motion of the shell must have exceeded this distance before it acquired a rotation corresponding with the grooves of the gun.

The sabot was stretched upon the shell so as to fill the bore of the gun, and could not be reëntered without considerable force.

It was observed by the man stationed to mark the first graze of the shells that they seemed to rise but 5 or 6 feet after ricochetting, while the horizontal distance passed over in the first bound was unusually great. The result might be expected from the small angle which the impinging surface of the shell makes with the surface of the ground, and corresponds with the great extreme range of the shells given above.

The following table gives the result of the first six fires at a target.

The target was constructed of yellow-pine timber and was 2 feet thick, its height being 10 feet and its breadth 12 feet.

The shells were each charged with 6 ounces of powder, and furnished with an experimental percussion fuse, which was designed to explode only upon receiving a severe shock. The fuses were inserted in the shells after the shells were introduced into the muzzle of the gun, requiring only to be pushed in with the finger.

The distance of the target from the gun was 600 yards.

(3) *First six rounds fired at target.*

[Distance 600 yards.]

Number.	Weight of charge.		Elevation.	Lateral deviations.	
	Powder.	Shell and sabot.		Right.	Left.
	Pound.	*Lbs. oz.*	° ′	*Ft. in.*	*Ft. in.*
1	1	9 10	1	.....	4 7½
2	1	9 5.4	1 30	(Missed to left.)	
3	1	9 10.5	1 45	(Went over in line.)	
4	1	9 15	1 30	3 0½	.....
5	1	9 13.5	1 30	½	.....
6	1	9 13.7	1 30	1 8½	.....
Mean	1	9 8.7	.....	2 feet 4½ inches.	

The first shell being fired at too low an angle, struck the ground in front of the target and ricochetted into it, penetrating 16 inches, point foremost.

The sabot of the second shell was recovered, and was found to be pierced with a large number of small holes, communicating between its rear end and its inner surface, probably in consequence of imperfect casting.

It will be observed that the elevation of the third round was 15′ greater than that of the subsequent ones.

Nos. 4, 5, and 6 went through the target. All struck point foremost, as could be ascertained from the marks of the sabots in the holes made by the shells. Shell No. 4 was found 350 yards beyond the target. The fuse, which was extracted, was found to have been broken by the shock received in the gun.

Shell No. 5 burst 3 feet behind the target. The distance was ascertained from the marks left by its explosion on the side of a brace of the target. Shell No. 6 burst behind the target, probably about the same distance, though it could not be exactly determined.

Several rounds were subsequently fired at the target for the purpose of testing modifications of the fuse.

Three trials were made with charges of 1¼ pounds of powder (the service charge for 6-pounders) for the purpose of comparing the ranges of the shells with the ranges of 6-pound shot.

(4.) *To compare ranges.*

Number.	Weight of charge.		Elevation.	Range.		Lateral deviation.	
	Powder.	Shell and sabot.		First graze.	Extreme.	Right.	Left.
	Lbs.	*Lbs. oz.*	°	*Yds.*			*Ft. in.*
1	1¼	9 7	2	853	(*)	.....	1 11
2	1¼	9 6	2	769	(*)	.....	7 4
3	1¼	9 12	2	882	(*)	.....	8 5
Mean	1¼	9 8.3	2	834½	.....	.....	5 5

* Not observed.

The Ordnance Manual gives 867 yards as the mean range of the 6-pounder gun with a solid shot and 1¼ pounds of powder.

The bore of the gun was repeatedly and carefully examined with the aid of a mirror, and it received no injury until the firing of the last shell, which burst in the gun.

This shell had been twice fired through the target and was reserved as of doubtful soundness. Three indentations were made near the middle of the chase of the gun.

On comparing the results of the firing given above with those obtained with smooth-bored guns, we have to regret the want of desirable data. The tables of artillery practice given in the Ordnance Manual make no reference to accuracy of firing, and but little minute information on this particular is accessible at the Ordnance Office. I have been unable to find any table of firing corresponding nearly with the first six rounds. The following statement of practice with the French 8-pounder (about equal in caliber to our 9-pounder) from the "Aide Mémoire," 1884, probably applies as nearly as anything I have been able to obtain:

The mean lateral deviation of 100 rounds at the distance of 500 metres (547 yards) was 2.3 metres (7 feet 6¼ inches), and at 800 metres (875 yards) 7 metres (22 feet 11¼ inches).

The three rounds of table (4) correspond pretty nearly in distance to this last. We may make the following comparison:

	Ft.	In.
Mean deviation of French 8-pound shot at 547 yards	7	6¼
Mean deviation of French 8-pound shot at 875 yards	22	11¼
Mean deviation of rifled-gun shell at 770 yards	3	5½
Mean deviation of rifled-gun shell at 834 yards	5	5

Ten rounds of solid shot were fired by an officer of the Ordnance Department from a smooth-bored 6-pounder with the service charge (1¼ pounds) of powder at the same target and from the same distance as the six rounds of table (3), principally for the purpose of comparing the penetrations. Four of these shots hit the target, six missing it. The mean penetration was 16 inches. The deviations are not known.

A table was also furnished me, by the kindness of Col. Huger, of the firing of 75 rounds of 6-pound shot with the service charge, at a target 10 feet high by 20 feet wide and 600 yards distant. The lateral deviations are given in feet. The number of hits was 49, of which the average deviation was just 4 feet. The number of hits on the central 12 feet of the target (or of which the deviations are set down as 6 feet or less) was 31, their average deviation 3 feet.

We will again compare, as follows:

The proportion of hits in firing at targets 600 yards distant is, in the table furnished by Col. Huger (central 12 feet), 1 to 2.4; ten rounds (6-pound shot), 1 to 2.5; table

(3) rifled gun, 1 to 1.5. The mean lateral deviation of the above hits was, in the table furnished by Col. Huger (central 12 feet), 3 feet. Table (3) rifled gun, 2 feet 4 inches.

The following statement was the only information furnished me on application at the Ordnance Office in regard to the deviations of firing at the distance of 600 yards:

[Extract from General Orders No. 10, 1844.]

ORDNANCE OFFICE, *Washington, February 17, 1844.*

* * * Of 114 fires from field artillery (6-pounder guns and 12-pounder howitzers) at targets from 400 to 600 yards distant, there were 37 hits, rather more than one in four shots. * * *

G. TALCOTT,
Lieutenant-Colonel Ordnance.

Gen. R. JONES,
Adjutant-General, U. S. A.

The size of the target is not given, and no accurate comparison can be made. Of the whole number of shells fired at the target from the rifled gun, one-third hit the target; and their average deviation was a little less than 22 inches. Some of these shells were very defective, the best being used in the first rounds.

The superiority of the firing of the rifled gun is markedly seen in its comparative penetration.

The 6-pound shot fired with 1¼ pounds of powder penetrated 16 inches, while the shell fired with 1 pound of powder went through the target (24 inches) and still retained a great velocity, as is evident from the distance at which the shells exploded behind the target, although they were fired by percussion against it.

This advantage in regard to penetration is doubtless the result of the following causes: The prevention of the loss of the force of the powder by windage, as already explained; the decreased resistance of the air to the projectile, and lastly, the advantageous form of the shell for penetration. The effect of the first two of these causes is also seen in comparing the mean range of the three shells fired with 1¼ pounds of powder with the mean range of 6-pound shot with the same charge and at the same elevation as given in the Ordnance Manual. Although the weight of the shell exceeds that of the shot more than 50 per cent, its range lacks less than 4 per cent of being equal.

The advantages of the proposed plan over the use of ordinary smoothbored guns, if we may deduce them from the foregoing experiments, may be expressed in the following summary:

(1) The greater effective force or penetration of the projectile.

(2) The greater accuracy of firing.

(3) The ability to explode shells by percussion against the object at which they are fired.

(4) The flattened form of the ricochet, which renders ricochet firing much more destructive.

(5) The greater durability of the gun, in consequence of the prevention of the lodgments usually formed by the bounding of the ball in the bore.

(6) It will necessarily follow from the facts that the same initial velocity may be imparted to the proposed shell, and that its resistance to the air is less; that greater ranges may be obtained by the proposed plan than are possible with spherical shot.

It would be but stating the converse of these advantages to say that guns and ammunition of equal efficiency would have less weight and more transportability.

The service of the gun is rendered no more complex, and if any increase of time is required in loading it will be only in presenting the ball properly for entering the gun, and the whole time consumed in charging the gun will be much less than is always required for accurate aiming.

The importance of these advantages undoubtedly varies in different departments of service. It is probably greatest in siege, seacoast, and naval service.

In siege service great penetrative force of the shot or shells, accuracy of firing, long ranges, and transportability of guns and ammunition are all necessary in the highest degree.

The explosion of shells by percussion will probably be of greatest importance in firing against shipping. Great want of uniformity in the distance at which shells will explode when fired with the common fuses, even though perfect uniformity were attained in the time of their burning, will always occur, in consequence of the variation in the time of flight of shells fired under apparently the same circumstances: and when to this is added the difficulty of a correct estimate of distances, the probability of exploding a shell at any particular place will be seen to be exceedingly small. It is also a matter of great difficulty to lodge a shell in a ship's side, since the conditions to be fulfilled include the weight of the charge, the distance, and the angle of

the ship's side with the line of fire. In the use of percussion shells, however, the velocity most favorable to accuracy may be used, and these difficulties are entirely avoided.

The effect of the explosion of a large shell between the decks of a ship of war can hardly be anticipated. The accidental explosion of a 10-inch shell on board the English practice ship *Excellent* is stated to have put 100 men *hors du combat*.

Long ranges and accuracy of firing are eminently important in seacoast service.

The estimated importance of long ranges and great penetrative force in the naval service is evinced by the introduction of guns of heavy caliber. The decreased weight of the guns, and the diminished force of recoil consequent on the more economical use of the explosive force of the powder in producing equivalent effect, would doubtless be desirable.

With the desire that the value of the plan proposed may be fully tested by guns of heavy caliber, and compared with the unrifled cannon now in use in the various points affecting its utility in the different branches of service, Congress is petitioned for the necessary aid.

WILLIAM E. WOODBRIDGE.

DECEMBER, 1852.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 178.

JOHN VAN FOSSEN.

FEBRUARY 6, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PATTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1662.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1662) removing the charge of desertion against John Van Fossen, having considered the same, respectfully report:

John Van Fossen (aged 18 years) was enrolled January 21, 1862, at Waterloo, Mo.; was mustered in February 1, 1862, at Alexandria, Mo., to "serve during the war in Missouri," in Capt. Turk's Company B, Second Missouri State Militia Cavalry. The military record shows that "there are no muster rolls of said company on file covering the period from the date of enrollment of this soldier to April 30, 1862," and "that on the muster roll of the company for May and June, 1862, he is reported as " absent with leave." But his name does not appear on any subsequent records of Company B, nor can any record of his discharge be found.

The record, a copy of which is attached to this report, further certifies that on July 28, 1863, John Van Fossen was enrolled and on November 30, 1863, mustered in to serve three years in Company M, Ninth Iowa Cavalry, and served in that organization until February 3, 1866, when when he was mustered out of service, having served two years and six months. It appears from evidence presented to the War Department that in the winter of 1862 said Van Fossen was taken with the measles, took cold, was rendered unfit for service, was examined and given a certificate of disability for discharge, and went home without waiting for his discharge, thinking the certificate was all that was needed, that he never thought of such a thing as deserting, and as soon as his health became better he enlisted and served faithfully.

In view of all the facts the committee recommend that the bill do pass.

Case of John Van Fossen, late private Company B, Second Missouri State Militia Cavalry, and late private Company M, Ninth Iowa Cavalry Volunteers.

A report in this case was furnished the Committee on Military Affairs, House of Representatives, on House bill No. 3554, Fifty-first Congress, first session, February 6, 1890. Following is a copy:

"John Van Fosan (aged 18 years) was enrolled January 21, 1862, at Waterloo, Mo., and was mustered in February 1, 1862, at Alexandria, Mo., to serve 'during the war in Missouri,' in Capt. Turk's Company B, Second Missouri State Militia Cavalry.

"There were no muster rolls of said company on file covering the period from the date of enrollment of this soldier to April 30, 1862.

"On the muster roll of the company for May and June, 1862, he is reported 'absent with leave,' but his name does not appear on any subsequent rolls or records of Company B, Second Missouri State Militia Cavalry, on file in this office, and an exhaustive search has failed to discover any record of his discharge.

"On July 28, 1863, John Van Fossen was enrolled, and on November 30, 1863, mustered in to serve three years in Company M, Ninth Iowa Cavalry, and served in that organization until February 3, 1866, when he was mustered out of service.

"The following is a synopsis of the testimony heretofore presented to this office with a view to the removal of the charge of desertion (implied by an absence of record of him after June 30, 1862) against this soldier, and for an honorable discharge as of Company B, Second Missouri State Militia, to wit:

"On February 9, 1882, John Van Fossen testified that he is the identical John Van Fossen, who enlisted in said company and regiment in the winter of 1862; that he was attacked with measles and took cold, causing disease of the lungs and general debility; that he was unfit for service and received a certificate of disability for discharge; that there was some delay in procuring the discharge, and as he was sick and anxious to get home, he left without waiting for it; that after remaining at home some months he became 'somewhat better,' and about the last of July, 1863, enlisted in Company M, Ninth Iowa Cavalry.

"On June, 1883, Van Fossen forwarded a blank form of 'certificate of disability for discharge,' on which appears the following certificate, to wit:

"'I certify that I have carefully examined the said John Van Fossen, of Capt. D. K. Turk's company, and find him incapable of performing the duties of a soldier because of constitutional debility caused by an attack of rubeola since his enlistment, which renders him unable to endure the fatigues of a soldier's life.

"'C. T. KIMMEL,
"'*Assistant Surgeon (2d M. S. M. C.)*'

"This certificate is without date and comprises all that is borne on the blank form.

"On June 11, 1885, Van Fossen stated that in 1862 he contracted lung disease as a sequela of measles, and at the time (September 1, 1862) the Second and Eleventh Regiments Missouri State Militia Cavalry were consolidated he was examined by Surg. Lyon, of the regiment, pronounced unfit for duty, and given a certificate of disability for discharge, and he would have been discharged if he had stayed a day or two longer; that, as he was very sick, was young, and ignorant of military usages, thinking the certificate of disability was all that he needed, he went home, he thinks, in October or November, 1862, and remained there until his enlistment in the Ninth Iowa Cavalry in July, 1863; that 'it was not my intention to desert from the Second Missouri State Militia Cavalry; I never thought of such a thing, and I am sorry that I did not stay and get my discharge.'

"The several applications for removal of the charge of desertion against this soldier have been denied by this office on the ground that, as he enlisted in the Ninth Iowa Cavalry without having received a discharge from the Second Missouri State Militia Cavalry, he became a deserter from the latter organization by operation of law (twenty-second, now fiftieth, article of war) and the Department was, consequently, not empowered to remove the charge.

"Upon the official record and this man's own admission that he left the Second Missouri State Militia Cavalry Volunteers without proper authority, it becomes apparent that he was absent in a state of desertion a period exceeding four months before he enlisted in the Ninth Iowa Cavalry Volunteers, and for that reason the provisions of the act of Congress approved March 2, 1889 (section 3), afford no relief in this case.

"A report in this case was also furnished the Hon. M. H. Ford, of the House Committee on Military Affairs, on March 15, 1888, in connection with a House bill (number not stated), Fiftieth Congress, first session, introduced for the relief of this soldier, inviting attention to the report furnished on April 10, 1886."

The report quoted above embraces the matter of a prior report to the House Committee on Military Affairs, dated April 12, 1886, on House bill No. 4993, Forty-ninth Congress, first session.

The status of the case has undergone no change since the date of the last report furnished the committee, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. L. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 179.

EZRA A. WILSON.

FEBRUARY 6, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PATTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2876.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2876) for the relief of Ezra A. Wilson, having considered the same, beg leave to submit the following report:

From the records of the War Department it appears that Ezra A. Wilson was commissioned as second lieutenant in the One hundred and forty-eighth Regiment New York Volunteers on March 21, 1863, no evidence showing previous service in said regiment, nor is any evidence produced to show that said Ezra A. Wilson was mustered on said commission as second lieutenant, or that he performed the duty of that office.

The committee do therefore report the bill back with the recommendation that it do not pass.

Case of Ezra A. Wilson, alleged late of the One hundred and forty-eighth New York Volunteers.

A report in this case was furnished the Committee on Military Affairs, United States Senate, on Senate bill No. 702, Fifty-first Congress, first session, January 23, 1890, and was printed in Senate Report No. 247 of the same session. Following is a copy:

"The name of Ezra A. Wilson is not borne on the muster rolls of the One hundred and forty-eighth New York Volunteers.

"*Alphonso* Wilson was mustered into service and appointed sergeant Company D, One hundred and forty-eighth New York Volunteers, September 5, 1862, and is reported as such, present for duty, to October 31, 1863. Roll for November and December, 1863, shows him sergeant, absent on furlough. He was discharged as sergeant for promotion in Tenth United States Colored Troops, February 5, 1864.

"Ezra A. Wilson was commissioned second lieutenant, One hundred and forty-eighth New York Volunteers, March 21, 1863; but no vacancy existed in Company D, in which he served from said date to date of his discharge.

"In 1889 the claim of Mr. Wilson for recognition as second lieutenant, One hundred and forty-eighth New York Volunteers from April 14, 1863, to February 5, 1864, under the provisions of the acts approved June 3, 1884, and February 3, 1887, was rejected by the Department for the reason the records failed to show that he rendered any service as of that grade and organization, and for the additional reason that no vacancy existed for him."

Since the date of the report quoted above the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 28, 1892.*

The SECRETARY OF WAR.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 180.

S. K. N. PATTON.

FEBRUARY 6, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PATTON, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3419.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3419) for the relief of the estate of S. K. N. Patton, deceased, having considered the same, respectfully submit the following report:

It appears from the records of the War Department that Samuel K. N. Patton was commissioned colonel Eighth Tennessee Cavalry April 1, 1864, and was mustered into service same date, to serve three years.

No evidence is produced to show that he rendered any military service prior to date of muster as above.

The committee not being able to make favorable report on the bill, report it back with a recommendation that it do not pass.

Case of S. K. N. Patton, late of the Eighth Tennessee Cavalry Volunteers.

The records of this Department show that five companies of cavalry were organized at Camp Nelson, Kentucky, from June 30, 1863, to August 14, 1863, for the Tenth Tennessee Cavalry; that seven companies were recruited in the State of Tennessee at large, from August 14, 1863, to February 6, 1864, for the Fifth Tennessee Cavalry; and that the entire force was consolidated and designated the Eighth Regiment Tennessee Cavalry, by order of Governor Johnson, February 16, 1864.

Samuel K. N. Patton was commissioned colonel Eighth Tennessee Cavalry April 1, 1864, and was mustered into service as such the same date to serve three years.

The records fail to show that he rendered any military service with the regiment, or any portion of it, prior to the date of his muster.

He was honorably discharged as colonel at Knoxville, September 11, 1865.

The Eighth Tennessee Cavalry completed its organization March 31, 1864, and on that date first became entitled, under the provisions of War Department General Orders No. 61, of 1861, to an officer of the grade of colonel.

No application for the amendment of the military record of Col. Patton, under the provisions of the act approved June 3, 1884, and the acts amendatory thereof, has ever been submitted to this Department for consideration. Had such a claim been presented it would have been denied for the reason that his muster as colonel of the Eighth Tennessee Cavalry, April 1, 1864, recognized him as such from the date of his commission.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 28, 1892.*
The SECRETARY OF WAR.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 181.

CURTIS P. WISE.

FEBRUARY 6, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PATTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3844.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3844) removing charges of desertion against Curtis P. Wise, late a member of Company I, One hundred and twenty-eighth Regiment of Illinois Volunteer Infantry, having considered same, respectfully report:

Curtis P. Wise was enrolled September 6, 1862, at Camp Butler, Ill., as a private in Company I, One hundred and twenty-eighth Illinois Volunteers, to serve three years. He served faithfully until the last days of March, 1863, at which time he was sent home sick from Cairo, Ill., by his captain, William A. Fry, and told that his discharge would be sent him. Said Curtis P. Wise remained at home, but secured no discharge, and was sick and unable to do service during the entire remainder of time for which he was enlisted, and no charge of desertion was ever made against him.

In view of all the facts the committee would recommend that the bill do pass.

Case of Curtis P. Wise, late of Company I, One hundred and twenty-eighth Illinois Volunteers.

Curtis P. Wise was enrolled September 6, 1862, at Camp Butler, Illinois, as a private in Company I, One hundred and twenty-eighth Illinois Volunteers, to serve three years, and was mustered into service November 4, 1862.

The muster-in roll of the company is the only one on file, and no record of the soldier is found subsequent to his muster in.

This regiment was organized at Camp Butler, Illinois, from November 4 to December 18, 1862, to serve three years, and within the period of five months lost 700 men, principally by desertion.

Applying for a discharge the soldier testified, under date of July 12, 1889, that he served in Company I, One hundred and twenty-eighth Illinois Volunteers, until the organization was disbanded and its officers mustered out of service, at which time he was absent on a sick furlough and failed to get his discharge.

Marble D. Camden, of Stone Fort, Ill., aged 53 years, in an affidavit executed in Johnson County, Ill., July 12, 1889, declared that he was with the claimant some time at Camp Butler, Illinois, and knows that the claimant was on duty in Company I, One hundred and twenty-eighth Illinois Volunteers; that after the regiment moved to Cairo, claimant came home on a sick leave and remained, unable to be present when the officers of his company were mustered out; that he was at affiant's house (they were neighbors) the greater part of the summer of 1863, and was in bad

Subscribed and sworn to before me this the 28th day of April, A. D. 1891. Further I certify that the affiant, William A. Fry, is a good moral citizen, a credible person, and entitled to full credit, and that he was acquainted with the contents of the foregoing affidavit, before swearing. Further, I am in no wise related to either the affiant, William A. Fry, nor the applicant, Curtis P. Wise, nor am I concerned in the prosecution of the foregoing claim.

MARTIN V. B. DIAL,
Justice of the Peace of said County and State of Illinois.

STATE OF ILLINOIS, *County of Johnson:*

In the matter of the application of the claim of Curtis P. Wise, late of Company I, One hundred and twenty-eighth Regiment of Illinois Volunteer Infantry, personally comes before me, a notary public in and for the county of Johnson, State of Illinois, Wyatt C. Ferrell, a citizen of the county of Williamson, in the State of Illinois, whose post-office is Creal Springs, county of Williamson, State of Illinois; who being duly sworn, is personally known to me to be reputable and entitled to credit. Being by me duly sworn as above stated, declares as follows:

"I became acquainted with Curtis P. Wise almost from his infancy, and that he enlisted in Company I, One hundred and twenty-eighth Regiment Illinois Volunteer Infantry, in the latter part of the summer or early fall of 1862; that I was orderly or first sergeant of said company and Curtis P. Wise was a duty sergeant of above said company. The above named regiment arrived at Camp Butler, Springfield, Ill., about the 9th of October, 1862. That said Curtis P. Wise was a good and dutiful soldier and bid fair for future prominence. That sometime in, I think about the last of November or first of December, 1862, during a very cold spell of weather I took said Curtis P. Wise out with me to look up some boys that had overstayed their leave of absence, and while out after night Curtis P. Wise accidentally got into a hole of water from which before we got to camp his feet and legs were badly frozen or frostbitten. Soon after this occurrence I too became in bad health and was furloughed home. I was only with my company and regiment a few days at Cairo, Ill., from that time until the spring of 1863, but found said Curtis P. Wise suffering with his feet and legs, also with chronic diarrhea. That being in bad health myself through the winter and spring of 1863 I was sent home by Col. R. M. Hundly on special service, the object being to try to induce many of the boys that were absent at that time to return to duty. That while preparing to discharge last said duty I was notified by Col. Hundly that there was an arrangement made to discharge said Curtis P. Wise, he being at that time at home on a sick leave.

That while at home on above stated business I saw and talked with Curtis P. Wise, and from his appearance he was in feeble health.

The One hundred and twenty-eighth Regiment Illinois Volunteer Infantry was disbanded sometime in the spring of 1863, and then formed into a detachment. I don't remember seeing said Wise any more till after the close of the war, perhaps in 1866, and still heard him complain of his old referred to injuries. Curtis P. Wise was a healthy, stout young man up to his injuries above referred to. I think, perhaps, I could make further statements, but my mind and memory is somewhat disturbed over the loss of my dear wife a few days ago. My age is near 62 years; post-office address as above. I further state I have no interest in the prosecution of above claim.

WYATT C. FERRELL.

Sworn to, subscribed before me by the above-named affiant, and I certify that he wrote the body of this affidavit and acquainted himself with its contents before he executed the same. I further certify that I am in nowise interested in this case, and am not concerned in its prosecution, and the words interlined was done before he executed the same.

Given under my hand and official seal this April 30, A. D. 1891.

R. H. WISE. [SEAL.]

STATE OF ILLINOIS, *Saline County, ss:*

In pension claim No. 723820, of Curtis P. Wise, personally appeared before me, a notary public in and for said county, Edward Teal, who, being duly sworn on his oath, says that he is 65 years of age, and his post-office is Stonefort, Ill.; that he is well acquainted with the said claimant, and has been since his, claimant's, boyhood; that at date of claimant's enlistment in the army, in 1862, he was a stout, healthy boy; that he served in same regiment with claimant, from date of enlistment in 1862, to the last of March, 1863, at which time claimant was sent home on account of disabil-

ity; that he, claimant, was then suffering from diarrhea and the effects of frozen feet and legs; that he saw claimant and talked with him while in the hospital at Cairo, Ill., just before he was sent home; he was then in a very bad condition; that his understanding, at the time, was that he, claimant, was then to be discharged; that he knows as a matter of fact that claimant's condition was such as to entitle him to a discharge.

That he next saw claimant in the summer of 1863; he was still suffering from said disabilities, and so continued to suffer for two or three years; most of his time was confined to his bed and room, and was not at any time, after his return home, able to have traveled or left his home and reported to his company before it was discharged from the service; that he has lived in the same neighborhood with said claimant each and every year since in the summer of 1863 to the present time, and has the means of knowing his physical condition; that he has never recovered from said disability to the present time, and has not been able to perform any kind of manual labor during any year since his return from the army; he is not related to claimant and has no interest in this claim.

EDWARD (his x mark) TEAL.

Attest:
W R. STALIONS.

Subscribed and sworn to before me this 30th day of March, 1891, and I certify that the foregoing affidavit was read and explained to affiant before swearing to same; that he is entitled to credit; I have no interest in this claim.

[SEAL.] W. R. STALIONS,
Notary Public.

STATE OF ILLINOIS, *Saline County, ss:*

In the matter of pension claim No. 723820, of Curtis P. Wise, of Company I, One hundred and twenty-eighth Regiment Illinois Infantry Volunteers, personally appeared before me, a notary public in and for said county, Nathaniel Gunter, who, being duly sworn, on his oath says that he is 49 years of age, and his post-office is Stone Fort, Ill.; that he was well acquainted with said claimant prior to his enlistment in the Army; he was then a stout and able-bodied boy; that he saw claimant in May, 1863, when he, affiant, was at home on furlough; claimant had also just come home from the Army; well remembers that claimant was at that time in bad health—was suffering from diarrhea and frozen feet and legs, or said his feet and legs had been frozen; well remembers that claimant was not able for the performance of any kind of duty, and did not look at the time like he ever would be; that he next saw claimant in the fall of 1865, after his, affiant's, discharge, at which time claimant was still suffering from diarrhea, and also from sore feet and legs, and was wholly unable for the performance of any kind of duty; that he has been well and intimately acquainted with claimant each and every year and lived in same neighborhood with him since discharge to the present time, except the years 1869 and 1873; all of which time claimant has suffered from said disease, in consequence of which he has not been able, during any year since 1865, for the performance of manual labor more than one-fourth of his time; that he is not related to claimant, and has no interest in the prosecution of this claim.

NATHAN. GUNTER.

Subscribed and sworn to before me this 30th day of March, 1891; and I certify that the foregoing affidavit was fully explained to affiant before swearing to the same, and that said witness is entitled to credit; that I have no interest in the prosecution of this claim.

[SEAL]. W. R. STALIONS,
Notary Public.

STATE OF ILLINOIS, *Saline County, ss:*

James W. Fletcher, of said county, after being duly sworn, on his oath says he is 46 years of age, and his post-office is Harrisburg, Ill.; that he was well acquainted with C. P. Wise, of Company I, One hundred and twenty-eighth Regiment Illinois Volunteers, and served in same regiment with him; that at date of enlistment said C. P. Wise was a sound man, free from disease of any kind; that while in the Army and in line of duty said soldier became disabled by frozen feet and legs, and diarrhea and mumps; that he was with said soldier in the hospital at Cairo, Ill., about March, 1863; that he knows as a matter of fact that said soldier was ordered discharged from said hospital; that he heard their colonel and the physician in charge make the order; that Col. Hundly took said soldier to the train and helped to put him on the car and sent him home, telling him at the time that his discharge should

forwarded to him; that he further states as a matter of fact that the said C. P. Wise did not desert his company at any time during his term of service.

He further declares that he has no interest in said case and is not concerned in its prosecution and is not related to said applicant.

his
JAMES W. × FLUTCHER.
mark.

Sworn to and subscribed before me [by] the above-named affiant; and I certify that I read said affidavit to said affiant, and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in this case and not related to claimant, nor am I concerned in its prosecution.

[SEAL.] JAMES F. GAYLORD,
Notary Public.

This the 28th day of April, 1890.
I have a certificate on file.

STATE OF ILLINOIS, *Salem County, ss:*

In the matter of pension claim No. 723820 of Curtis P. Wise, of Company I, One hundred and twenty-eighth Regiment Illinois Volunteers, personally appeared before me, a notary public in and for said county, Thomas Dixon, who, after being duly sworn, on his oath says that he is 59 years of age, and his post-office is Carrier Mills, Ill.; that he was well acquainted with the said Curtis P. Wise at and prior to his enlistment in said company; that he was then a sound and able-bodied man; that during the winter of 1862 or early part of 1863 said soldier became affected with frozen feet and legs, which rendered him totally disabled for any kind of military duty; he thinks the disability was incurred in December, 1862, near Camp Butler, Ill.; that he, affiant, was a member of Company K, of same regiment, and was in the hospital at Cairo, Ill., with said soldier for a long time; that soldier was suffering in the extreme from frozen feet and legs; that he frequently saw soldiers' feet and legs dressed, and well remembers the offensive and bad odor caused by the same in the hospital; that about the last of March, 1863, said soldier was sent home, by order of his captain, William A. Fry, and Col. Hundly and the physician in charge of hospital, with the understanding that his discharge be forwarded him at his home, for the reason that he was then adjudged to be unable to ever perform military duty again; that he was taken out of said hospital by the assistance of his captain and put on the train at Cairo, Ill., which was the last time he ever saw said soldier until after the close of the war; that he, affiant, left said hospital and was sent to Company A, Ninth Illinois Regiment Infantry.

That on his return home from the Army in 1865 he again saw said soldier, at which time he was still suffering from said disability; that he is not related to said soldier; and has no interest in the prosecution of this claim.

his
THOMAS × DIXON.
mark.

J. W. C. PEMBERTON.
MOSES WEST.

Subscribed and sworn to before me this 7th day of November, 1891; and I certify that the foregoing affidavit was read to and explained to said affiant before swearing to the same; and that said affiant is respectable and entitled to credit; that I am not related to claimant, and have no interest in the prosecution of this claim.

[SEAL.] J. F. FERGUSON,
Notary Public.

STATE OF ILLINOIS, *Saline County, ss:*

In the matter of pension claim No. 723820, of Curtis P. Wise, of Company I, One hundred and twenty-eighth Regiment Illinois Volunteers, personally appeared before me, a notary public in and for said county, Jacob Teal, who being duly sworn, on his oath says that he is 59 years of age and his post-office is Stone Fort, Ill. That he is well acquainted with Curtis P. Wise, the above-named soldier, and has been since he (soldier) was a boy. Well remembers when said Curtis P. Wise enlisted in the Army in the fall of 1862, at which time he was a sound and able-bodied man. That he also remembers when said Curtis P. Wise came home from the Army in the spring of 1863, at which time he was very low, and was suffering from diarrhea and the effects of frozen feet and legs. That he continued to suffer from said disease for several years after his return home as aforesaid. That he lived in the same

neighborhood with said Curtis P. Wise from and before his return home in 1863, to the present time, and has had the means of knowing his physical condition each year to the present. That he knows as matter of fact that there was no time between the spring of 1863 and the close of the war in 1865 that the said Curtis P. Wise was able to have returned to his company, for the reason that he was confined to his bed and room and was so confined at the close of the war. That he made frequent visits to see said soldier, in fact, saw him almost weekly from his return home in 1863 to 1865, and often assisted in waiting on him. That he was treated by Dr. John Whitnel, who often called on him to assist him when dressing said soldier's legs and feet. That said soldier has not recovered from said disabilities or either of them to the present time. That he is not related to Curtis P. Wise and has no interest in the prosecution of this claim.

his
JACOB × TEAL.
mark.

Attest:
JACOB HAYES.

Subscribed and sworn to before me this 23d day of May, 1891; and I certify that the contents of the foregoing affidavit was fully made known to said witness before swearing to the same, and that said witness is respectable and entitled to full credit. I am not related to soldier and have no interest in this claim.

[SEAL.] W. R. STALIONS,
Notary Public.

Clerks certificate on file in Pension Office.

STATE OF ILLINOIS, *County of Saline:*

In the matter of the application of Curtis P. Wise, late of Company I, One hundred and twenty-eighth Regiment Illinois Volunteer Infantry, personally came before me, in aforesaid county and State, N. J. Rushing, a citizen of the town of Carrier Mills, county of Saline, State of Illinois, who is personally known to me to be reputable and entitled to credit, and who, being by me duly sworn, declares as follows: That he was well acquainted with said claimant at and prior to his enlistment in 1862, at which time he was a sound and able-bodied man; that he saw claimant in the spring of 1863, immediately after he came out of the Army; he was then suffering from sore feet and legs, which he is well satisfied was caused by being frozen; he was also complaining of mumps, which had injured his left testicle; remembers seeing his testicle at the time; that he knows he was in very bad health; very much emaciated; .that he has been well acquainted with claimant each year since 1863 to present time and knows that from some cause he (claimant) has not been able for the performance of manual labor during any year since 1863 to present time sufficient to obtain his sustenance more than one-fourth of his time or ability, and some parts of his time not so much; age 54 years; that he knew said statement to be true of his own personal knowledge, derived from personal acquaintance and being in claimant's company each year from 1863 to present time; he further declares that he has no interest in said case, and is not concerned in its prosecution, and is not related to said applicant.

N. J. RUSHING.

Attest:
D. O. ALLEN.

Sworn to and subscribed before me the above-named affidavit, and I certify that I read said affidavit to said affiant and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in this case and not related to claimant, nor am I concerned in its prosecution.

Witness my hand and seal this 26th day of March, 1890.

[SEAL.] D. O. ALLEN,
Notary Public.

STATE OF ILLINOIS, *Johnson County, ss:*

In the matter of pension claim No. 723820, of Curtis P. Wise, of Company I, One hundred and twenty-eighth Regiment Illinois Infantry Volunteers, personally appeared before me, a notary public in and for said county, J. E. W. Reid, who, being duly sworn, on his oath says he is 56 years of age, and his post-office is Ozark, Ill.; tha the is well acquainted with Curtis P. Wise, the above-named soldier; well remembers when he enlisted in Company I, One hundred and twenty-eighth Regiment Illinois Volunteers, in the fall of 1862; that he was at that time a stout and able-bodied boy; that he well remembers when said soldier came home from the

Army in March, 1863, at which time he was in very bad health, almost in a helpless condition, suffering from diarrhea and results of frozen feet and legs; that he lived in the same neighborhood with said soldier from his return home in March, 1863, to the close of the war in 1865, and made frequent visits to see him, and some of the time waited on him; that he knows as a matter of fact that said soldier was not able at any time or during any year between March, 1863, and the close of the war in 1865, to have returned to his company, for the reason that he never recovered from said disabilities and was confined to his bed and room; that he has been well acquainted with the said Curtis P. Wise each and every year since 1865 to the present time, and has the means of knowing that he has never recovered from said disabilities to the present time, and has not been able during any year since 1865 to the present time to perform manual labor sufficient to obtain his subsistence; that his means of knowing the above facts are that he has seen said soldier and been in his company almost every year since 1865 to the present time; that he is in no way related to said soldier and has no interest in the prosecution of this claim.

J. E. W. REID.

Subscribed and sworn to before me this 30th day of April, A. D. 1891, and I certify that the foregoing affidavit was fully explained to said affiant before swearing to the same, and that said affiant is respectable and entitled to credit; that I have no interest in the prosecution of this claim.

[SEAL.] F. M. BARNWELL,
Notary Public.

STATE OF ILLINOIS, *Williamson County, ss:*

In the matter of pension claim No. 723820, of Curtis P. Wise, of Company I, One hundred and twenty-eighth Regiment Illinois Volunteers, personally appeared before me, a notary public in and for said county, Marbel D. Camden, who, being duly sworn, on his oath says he is 55 years of age, and his post-office is Stone Fort, Ill.; that he is well acquainted with Curtis P. Wise, the above-named soldier, and has been since their boyhood; that he well remembers when said soldier enlisted in said Company I, One hundred and twenty-eighth Regiment Illinois Volunteers, which was in the fall of 1862, at which time he was a stout, healthy boy; that he well remembers when said soldier came home from the Army in the latter part of March, 1863, at which time he was suffering in the extreme from what he then understood was result of frozen feet and legs, and diarrhea; that he lived in same neighborhood with soldier and made frequent visits to see him and assist in waiting on him; that he knows as a matter of fact that said soldier never at any time recovered from said disabilities between the time he came home in March, 1863, and the close of the war, so as to have been able to have returned to his company; that he was near neighbor as aforesaid and saw said soldier almost weekly during that time, and knows he was confined to his bed and room during the time aforesaid; that he has lived near neighbor to said soldier and been in his company almost every year since the close of war in 1865 to the present time and knows that said soldier has not at any time or during any year since 1865 to the present time recovered from said disabilities, and has not at any time since he came home, or since 1865, been able to perform manual labor sufficient to obtain his subsistence; that he is not related to said soldier and has no interest in the prosecution of this claim.

MARBEL D. CAMDEN.

Subscribed and sworn to before me this 29th day of April, 1891, and I certify that the foregoing affidavit was fully explained to said affiant before swearing to the same, and that said affiant is respectable and entitled to credit; that I have no interest in the prosecution of this claim.

[SEAL.] THOMAS A. BOREN,
Notary Public.

(Clerk's certificate on file.)

STATE OF ILLINOIS, *Saline County, ss:*

In the matter of pension claim No. 723820, of Curtis P. Wise, of Company I, One hundred and twenty-eighth Regiment Illinois Volunteers, personally appeared before me, a notary public in and for said county, T. J. Osburn, who, after being duly worn, on his oath says, that he is 51 years of age, and his post-office is Stone Fort, Ill. That he is a practicing physician, and has been since 1855. That in the fall of 1865 he commenced treating the said claimant for chronic diarrhea; also treated him for frozen feet and legs, which diseases, he was then informed by claimant, were contracted while in the Army, which he then had and still does have every

reason to believe is true. Judging at the time (1865) from the appearance of said claimant, and his knowledge and experience in such disease, that claimant was at the time in bad condition, wholly unable for any kind of duty or manual labor; that he was also informed by claimant that he had contracted said disabilities during the winter of 1863 and latter part of 1862; that he would now give it as his opinion that if said disabilities were so contracted at the time aforesaid, that said claimant would have not at any time between the contracting of said disabilities and the time he first saw him in 1865 been able to have have performed any kind of military duty, or to have traveled from his home and reported to his company; that he has seen claimant and treated him almost every year or gave him medical advice since 1865 to the present time; that he has not recovered from said disabilities, or either of them, at any time since he first treated him; that he regards the injuries to his feet and legs as the result of being frozen, and that the same is permanent and incurable, as it frequently breaks out in sores; that claimant may at times partially recover from diarrhea, but would again relapse; that he has all of the time aforesaid been very much debilitated and very weak, and never able to perform manual labor and do justice to his health; that he would consider him now wholly unable for the performance of any kind of manual exercise; that he is not related to claimant, and has no interest in the prosecution of this claim.

T. J. OSBURN, M. D.

Subscribed and sworn to before me this 28th day of March, 1891; and I certify that the foregoing affidavit was fully explained to affiant before swearing to the same, and that affiant is respectable and in good professional standing; that I have no interest in the prosecution of this claim.

[SEAL.]

W. R. STALIONS,
Notary Public.

(Clerk's certificate on file in Pension Office.)

sponse to his complaint Gen. R. Jones, U. S. Army, issued the following order:

FORT GIBSON, *January 8, 1845.*

Capt. N. BOONE, *First Dragoons:*

SIR: You will repair, without unnecessary delay, to the two salines formerly occupied by Capt. John Rogers and Bluford West, for the purpose of making such examination of the premises as may enable you to estimate and report to the Commissioners the value of the improvements at each saline, about the time that they were dispossessed of the premises in 1844, under the provisions of the Cherokee laws relative to the reservation of salines as national property. You will please to make your report so as to make your estimate of valuation under separate heads, as follows:

I. Improvements of the farm, as—

(1) Dwelling house and outhouses.
(2) Clearing wood land.
(3) Fencing of fields.
(4) Breaking up prairie land.
(5) Digging and walling fresh-water wells.

II. Improvements and materials necessary for erecting and carrying on salt works, as—

(1) Troughs or cisterns for holding water.
(2) Digging and walling the furnaces.
(3) Sheds over furnaces.
(4) The salt kettles.
(5) Wagons, etc.
(6) Necessary buildings attached to the salt establishments.
(7) The digging and boring for water, if not a natural saline.
(8) Pipes for conveying the same.

Take special care to ascertain whether either saline reservation be natural or artificial, and, if the latter, whether without the obtaining of water by the process of boring by private enterprise (late occupants) the saline could in equity have been claimed as a national reservation under the Cherokee laws.

You will also please to report whether Mr. West's premises have been taken possession of by the Cherokee authorities or whether they be still occupied by himself or his family, and if so, ascertain the reason.

Please let your report be submitted with as little delay as possible.

I think it expedient a second officer should accompany you, and have accordingly directed Lieut. Kirkham to report to you.

I am, sir, very respectfully, your obedient servant,

R. JONES, U. S. A.,
Commissioner.

Capt. Boone, of the First Dragoons, being prevented by sudden sickness from proceeding to execute the above instructions, Capt. S. Woods, Sixth Infantry, was substituted. For his very satisfactory report, see Appendix U, paper No. 5, relative to "salines."

(See pp. 75 and 76, Report Secretary of War, and Appendix U, paper No. 5, relative to salines, Vol. 8, Senate Doc., second session Twenty-eighth Congress.)

In obedience to said order Capt. Woods and Lieut. Kirkham, of the Army, submitted the following report:

FORT GIBSON, *January 13, 1845.*

GENERAL: In obedience to instructions received from you, dated Fort Gibson, January 8, 1845, Lieut. Kirkham and myself proceeded to the salines formerly occupied by Messrs. Bluford West and John Rogers, and made the examinations and valuation of improvements required by our instructions, the result of which is submitted to you, and is as follows, viz:

Mr West's improvements.

(1) One dwelling house a story and a half high, built of hewn logs; two good-sized rooms with a passage between them; porches in front and rear; one room handsomely ceiled, and the whole house well finished. Considering the cost of lumber and building materials in that part of the country and the price of labor, I think the cost of this house has been about..... $2,000

Mr. West's improvements—Continued.

(2) One dining room and kitchen adjoining, both good, hewn-log buildings, valued at	$500
(3) Smokehouse, root house, negro house, a large log building, built for poultry, the whole valued at	200
(4) A spring, about 200 yards from the house, with slight improvements, valued at	25
(5) A well 30 feet deep. (They stopped digging before they reached water, in consequence of the law of 1843.) This was valued at	50
(6) One corn house; stable 80 feet in length, with several divisions in it; a small stable and stable yard, troughs, etc., valued at	300
(7) Eighty-seven acres of prairie land, the breaking and fencing of which, from the information we obtained, we considered worth $5 per acre, the whole amounting to	435
(8) Thirty-five acres of cleared woodland, fencing, etc., at $10 per acre	350
(9) Yard about the dwelling house, potato patch, garden, grass plat, etc., about 9 acres in all cleared land, valued at	190
(10) Fruit trees, 200 in number, 37½ cents each	75
The total of the valuation of the improvements on the farm amounts to	4,125

Improvements on the "saline."

(1) The shed for the furnace is 90 feet in length. The trough or cistern is 64 feet in length, 4½ feet in diameter. It was a solid log hollowed out. This trough supplied fifty-two kettles with water. There was considerable excavation and walling required for the adjustment of the furnace. A salt house stands adjoining the shed, the whole of which was valued at $300.

(2) Eight hundred feet of pipes for conveying water, valued at $200.

(3) Close to the well there are two buildings that are intended for the residences of workmen, with the outhouses about them; a blacksmith's shop; a building that was used as a salt house; a large shed; the whole valued at $250.

(4) The well is dug 125 feet deep, 10 feet from the top through gravel, and the remaining 115 feet were made by boring through solid rock. The first 10 feet of the well is 10 feet square, walled up with logs, and then a frame set in, leaving a space between it and the logs filled up with dirt. The boring through the rock was 2½ inches in diameter.

Some of the workmen are now there. The blacksmith says they were employed the greater part of two years in completing it, with generally four hands employed to work at the well and a blacksmith to keep the augers and boring apparatus in repair. When they struck the vein of water that supplies the well, a pipe was fitted tightly in the rock, extending above the level of the ground around the well 15 feet, a point to which the water rises and issues in a jet of an inch in diameter.

Mrs. West and many gentlemen of whom we made inquiry, say that Mr. West has frequently declared, in their presence, that his expenditures on these salt works were at least $6,000.

Everything about the well and furnace is in a decayed condition, from being left unoccupied, and no care being taken of them; no doubt in consequence of the law preventing Mr. West from continuing the manufacture of salt.

The well itself is in a good condition; the pipes are also good—many of them thrown out of place. Everything shows that the works were once complete and in full operation.

In 1841 Mr. West sold the kettles that had been in use, in consequence of an engagement for a partnership between himself and Mr. David Vann in carrying on the salt works. Mr. Vann had gone to the east to purchase new metal, and this Mr. West was expecting. Mr. Vann, however, changed his mind, and refused to engage in the business with Mr. West, and did not purchase the kettles. Mr. West then made arrangements to purchase the kettles and continue the work himself, when the law passed, in 1843, prohibiting private individuals from working salt works that were made by law the property of the nation, this saline being one.

We think it would be fair to estimate the labor, money expended, and what Mr. West has been deprived of in not working this saline, at $5,000.

We have examined the grounds about this well, and see nothing to induce the belief that this saline would have been of any value but for the improvements that Mr. West has made.. There is nothing that would have shown it a saline, but a "lick," which was probably a resort for numerous herds of cattle, which, to an almost equal extent, is found in many other parts of the country. Mr. West's labor and enterprise has made valuable what before was of no value. When he first commenced he dug four wells to the depth of 10 feet and struck the rock; he succeeded in getting

some water, but not sufficient to justify much expenditure; but patient, persevering industry developed a valuable spring that we do not think the nation had any right to appropriate, and that in taking it away from Mr. West he should be allowed for it what it is worth, without regard to cost.

The percentage of salt in this water is not known, nor have we any means of estimating it; but we have been informed how it compares with the water of other salines. The water at the Union Mission is considered superior, but the water at the Grand Saline, occupied by Mr. Lewis Ross, inferior.

Mr. Ross gives a rent for the Grand Saline of $1,600 per year, for ten years. Many persons have told us that Mr. West's saline would have rented for the same, had it been in the market. We therefore think that in dispossessing him of the benefits of his own labor, he should be allowed $15,000 for his claim on this saline. We had reported to us that Mr. West had cut for his furnace 900 cords of wood, that had rotted, and been of no service to him; this we did not examine, as it was spread about over the country, and we thought we could safely allow him for 600 cords; this, at 50 cents a cord, what it cost, would be $300.

Our estimate of the value of his improvements on the farm and the actual expenditure on the well would be $9,425; and if the value which we consider has been given to the saline by Mr. West's labor—and without this it had no value—be added, which we have put down at $10,000, our valuation, including everything, will amount to $19,425.

We found Mr. West's family occupying the improvements on the place, but seemed to be under the constant expectation of being removed under the provisions of the law of 1843. The agent for the nation appointed to value the improvements on salines went to this place in 1844 to make a valuation, in order to remunerate the owner, take possession, and lease the saline, but neither valued, took possession, nor leased the saline. We are told that he gave as a reason why he did not that the improvements were too valuable to be paid for by the Cherokee Nation, and this we have had from too many and too good authority to doubt. This saline has a good body of land immediately around it and a great abundance of wood, and is within 1½ miles of Grand River.

Respectfully submitted.

S. WOODS,
Captain, Sixth Infantry.

Gen. R. JONES,
Commissioner, Fort Gibson, Cherokee Country.

(See pp. 107–109, Report of Secretary of War, Senate document, vol. 8, second session, Twenty-eighth Congress.)

From the foregoing it will be seen that Gen. Jones ordered the improvements of the farm to be appraised first and separately from the saline. From the report it will be seen that Capt. Wood and Lieut. Kirkham did appraise the improvements on the farm first and separately from the saline proper; that they appraised the improvements on the farm at $4,125. And it will also be seen that said Army officers appraised the saline proper with its appurtenances at $15,300, aggregating $19,425.

At this time, or soon thereafter, there was great disturbance amongst these people, growing out of demands that both factions, *i. e.*, the "Old Settlers," or Western Cherokee, and the Eastern Cherokees had against the Government, and conflicting demands and interest between themselves. So great was this disturbance that many lives were lost and much property destroyed. In order to quiet these people and to settle these various and conflicting interests the treaty of 1846, which treaty is a memorable one in the history of these people, was called. Amongst other things, the seventh article provides that all salines, the private property of individual Western Cherokees, of which they had been dispossessed, should be returned or paid for by the Cherokee Nation. (See 9 Stat. L., 874.)

It may be asked why was not this property either returned or appraised and paid for as provided in the seventh article of the treaty of 1846, recited in the preamble of the bill. The answer to that is easy. Some years after the war the chief appointed one D. W. C. Duncan to act

with the then agent of the Cherokee Nation. They made an investigation and found that the heirs of one John W. West (who was a brother to Bluford West, deceased) were entitled to one-third interest and assessed it at $5,000 with 5 per cent interest from date of seizure by the nation and so reported to the Department. Bills have at various times been introduced in Congress to pay this claim, but upon careful investigation both the Committee in the Senate and House on Indian Affairs rejected said claim for want of merit, therefore, said commission made no investigation or report as to the claim of Bluford West against the Cherokee Nation, notwithstanding they were selected for that purpose and that only.

Your committee have carefully examined all the papers and records to be had in the case, and have heard the delegates of the Cherokee Nation in behalf of the Nation, and there is no claim or pretense on their part that the saline property or any part thereof was ever returned to either Buford West in his lifetime or to his legal representatives since his death, and all the payment we find was made to Nancy Markham, the widow of the said West, deceased, amounting to $12,000, for her home improvements adjoining the West saline. Under the laws of the Cherokee Nation, upon the death of the husband, the widow, if any, survives to the home improvements. Nancy Markham, formerly Nancy West, as the widow of Bluford West, deceased, was entitled to recover from the Cherokee Nation pay therefor, which it seems she collected.

The delegates seem to think that the $12,000 paid the widow was intended to be in full for the entire estate, but the records and the evidence show conclusively that such was not the case. West having died when Gen. Jones issued his order to have the home farm improvements appraised separately, and they being appraised separately within themselves, show that the home improvements were treated as the separate property of the widow, and in keeping with this the account of the widow against the Nation upon which this payment was made is for her improvements, adjoining the West saline, following the appraisement made by Capt. Wood and Lieut. Kirkham; besides we find the sworn statement of the claimant (Nancy Markham, as administratrix of the estate of Bluford West, deceased), Joel M. Bryan, an old and respected citizen of that country, and Dennis W. Bushyhead, ex-chief of the nation, and now a delegate before this Congress, showing conclusively that not one dollar has ever been paid on the Bluford West saline proper, which sworn statements are herewith appended, marked Exhibit A.

It will be observed that the farm improvements for which the widow was paid $12,000 was only appraised by Wood and Kirkham at $4,125. The appraisement and account of the widow agree, but differ greatly in the amount. Claimant accounts for this by saying that several years had elapsed from the date of appraisement and date of payment, and that a large young orchard had become grown, bearing trees, and uncompleted barns had been finished by her, and that her settlement was based upon the valuation of her separate property when payment was made. If this be true, and we find nothing to contradict it, at least the evidence and records show conclusively that nothing was paid on the saline proper, which was separately appraised by Wood and Kirkham at $15,300, it must be so.

And as all claims against the Government growing out of the treaty of 1846, as well as individual claims of Western Cherokees against their own nation, have borne 5 per cent interest, your committee could well find that the Cherokee Nation should pay to the estate of Bluford

West, deceased, the sum of $15,300, the appraised value of the saline proper, as made by Capt. Wood and Lieut. Kirkham, with 5 per cent interest from date of award; and if what your committee has recited was all the evidence in the case, we could find nothing else; but it appears from the sworn statement of one Bluford Alberty and H. D. Reese, both being very worthy men, and the latter a very prominent one, that the agent of the Cherokee Nation, who was appointed by the Nation under the acts of their council to take possession and appraise the various salines appropriated to the public use did himself appraise the saline in controversy at $24,000.

Your committee have concluded to adopt the Nation's own appraisement and then allow them the full benefit of the $12,000 paid the widow, thus leaving a balance of $12,000, instead of $15,300, due the estate. The sworn statement of Alberty and Reese is herewith appended and marked Exhibit B. This gives the Nation full credit for all they claim they have ever paid and fixes the value of the entire property at what their own agent said it was worth, 5 per cent interest being the rate the Government has always paid the Cherokees on their trust fund; and inasmuch as the Cherokee Nation has been receiving 5 per cent interest from the Government on the very money they should have paid Bluford West, they can not complain at paying that rate on this long-deferred debt; in other words, by withholding the balance due West on their own appraisement, they have received from the Government the same amount of interest that the substitute requires them to pay on this demand. Besides, under the treaty of 1846, out of which this claim grows, interest has been allowed by Congress and by the Departments on all claims, both public and private, at that rate.

Finding that the legal representatives of Bluford West, deceased, have diligently prosecuted this claim against the Cherokee Nation at all proper times and upon all proper occasions, as admitted by the delegates of said nation, we see no reason why this long-deferred demand should not be paid with interest, as above stated. Therefore we report the accompanying substitute for the bill referred to us and recommend that it do pass.

CHEROKEE NATION, IND. T.,
Tahlequah District:

Personally appeared before the undersigned, Mrs. Nancy Markham, to me well known, who, being duly sworn, deposes and says: I was present when the United States Government officers (Capt. Wood and Lieut. Kirkham) valued the Bluford West saline.

John W. West never put in his appearance before the valuing agents, to there claim any interest in said Bluford West saline.

I was paid for my home improvements adjoining the Bluford West saline; but there was not paid to me or anyone else one dollar for the saline proper.

NANCY MARKHAM,
Administratrix of the estate of Bluford West, deceased.

Sworn to before me this 19th November, 1889.
[SEAL.]

ALLEN ROSS,
Clerk, T. D. C. N., Ind. T.

EXECUTIVE DEPARTMENT, CHEROKEE NATION,
Tahlequah, November 19, 1889.

I hereby certify that Mr. Allen Ross, whose name is affixed to the within as clerk of Tahlequah, Cherokee Nation, is and was at the time of signing the same, the duly elected and acting clerk of said district, and that the signature is in his own handwriting, and as such clerk all his acts are entitled to credit.

Witness my hand and seal of the Cherokee Nation.
[SEAL.]

JOHN L. ADAIR,
Executive Secretary.

CHEROKEE NATION, IND. T.,
Tahlequah District:

Personally appeared before the undersigned, clerk for the above district, J. M. Bryan, who makes the following statement:

I am now over eighty years old; have been a bona fide citizen of this nation fifty-seven years. I have lived near the Bluford West saline over fifty years, and personally knowing to the operation of said saline by Bluford West in his lifetime; and I never heard of John W. West having any claim or interest in the Bluford West saline until many years after the death of Bluford West.

Nancy Markham (now) was the widow of Bluford West, deceased, and she was paid $12,000 for her home improvements, adjoining the Bluford West saline, by the Cherokee Nation; but in that payment not one dollar was valued or paid for the saline proper, as under the Cherokee laws, at the death of a husband, the home improvements belong to the widow; and there never has been one dollar paid by the Cherokee Nation, to Nancy Markham, or to Nancy Markham, administratrix of the estate of Bluford West, deceased, or to any one else for the Bluford West saline.

J. M. BRYAN.

Sworn to before me this 19th November, 1889.
[SEAL.]

ALLEN ROSS,
Clerk, T. D. C. N., Ind T.

EXECUTIVE DEPARTMENT, CHEROKEE NATION,
Tahlequah, November 19, 1889.

I hereby certify that Mr. Allen Ross, whose name appears to the within affidavit, is and was, at the time of signing the same, the duly elected and acting clerk of Tahlequah district, in the nation aforesaid, and that his signature is in his own handwriting, and that all his official acts as such clerk are entitled to credit.

Witness my hand and seal of the Cherokee Nation.
[SEAL.]

JOHN L. ADAIR,
Executive Secretary.

CHEROKEE NATION,
Tahlequah District:

Personally appeared before me, Allen Ross, clerk of said district, Dennis W. Bushyhead, ex-chief of the Cherokee Nation, who, being qualified, makes the following statement, to wit: That he was treasurer of the Cherokee Nation in 1873, when council made an appropriation of $12,000 for the benefit of Mrs. Nancy Marcum, which amount she was paid in full. After he became principal chief of the Cherokee Nation he found on file in the executive office a schedule of property adjoining the Bluford West saline, for which council made the appropriation of $12,000 for the benefit of Mrs. Nancy Marcum. He served as treasurer of the Cherokee Nation for eight years, from 1871 to 1879. He also served as principal chief from 1879 to 1887, during which time he knows of no payment being made for the Bluford West saline proper. While principal chief he appointed D. W. C. Duncan to act for the nation as commissioner, with the Hon. John Q. Tufts, United States agent, to investigate the saline claim of Bluford West, deceased.

Pending the investigation J. M. Bryan, attorney for the estate of Bluford West, deceased, preferred charges against Commissioner Duncan, alleging that he and one Allen Gilbert were trying to prove that the heirs of John W. West had an interest in said saline. Mr. D. W. C. Duncan was notified of said charges, but no investigation was had in the matter.

D. W. BUSHYHEAD.

Sworn to before me this 19th November, 1889.
[SEAL.]

ALLEN ROSS,
Clerk, T. D. C. N., Ind. T.

EXECUTIVE DEPARTMENT, CHEROKEE NATION,
Tahlequah, November 19, 1889.

I hereby certify that Mr. Allen Ross, whose name is affixed to the within affidavit, is, and was at the time of signing the same, the duly elected and acting clerk of Tahlequah district, in the nation aforesaid, and that his signature is in his own handwriting, and that as such clerk all his official acts are entitled to credit.

Witness my hand and the seal of the Cherokee Nation.
[SEAL.]

JOHN L. ADAIR,
Executive Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., March, 1890.

I, T. J. Morgan, Commissioner of Indian Affairs, do hereby certify that the papers hereto attached are true and literal copies of the affidavits of B. W. Alberty, sworn to May 24, 1880, and of H. D. Reese, sworn to December 16, 1880; and of a copy of a statement made November 24, 1873, by J. M. Bryan, certified December 22, 1882, by John L. Adair, assistant executive secretary of the Cherokee Nation, all concerning the saline of Bluford West, in Cherokee Nation, and the valuation placed thereon, as the same appear on file in this office.

T. J. MORGAN,
Commissioner.

CHEROKEE NATION,
Tahlequah District:

Personally came before me, Allen Ross, a clerk in and for said district, Bluford Alberty, who, being duly sworn, deposeth and saith that he has been acquainted with Mrs. Nancy Marcum for many years, who was the widow of Bluford West, who owned a saline in the Cherokee Nation prior to 1843, with extensive improvements; that in 1843 a law of the Cherokee Nation made and declared all salines the property of said nation, and provided that the improvements made by private parties upon the said salines should be paid for by the Cherokee Nation; that in accordance with the provisions of the said law Madison Payne was appinted agent on the part of said nation to take possession of all the salines of the nation and cause them to be valued; that the said West saline was duly taken possession of by the said agent, and the improvements were valued at $24,000; and that the said amount, or any part of it, was not paid until after the late war, when a partial payment was made thereon; and that the above-mentioned Mrs. Nancy Marcum is the only surviving heir of the said Bluford West and wife, and is the lawful administratrix upon the said Bluford West's estate. Further he saith not.

B. W. ALBERTY.

Sworn to and subscribed before me on this the 24th day of May, 1880.
[SEAL.] ALLEN ROSS,
Clerk Tahlequah District, Cherokee Nation.

CHEROKEE NATION,
Tahlequah District.

Personally came before the undersigned, clerk of the above district, H. D. Reese, who, being duly sworn, makes the following statement in relation to the Bluford West saline:

I am about 59 years old; am a Cherokee; reside in the Cherokee Nation; was living here when the Cherokee Nation took possession of all salines by an act of the national council in 1843.

James M. Payne was the agent of the nation. Bluford West's saline was taken with the others.

The said agent was instructed to value all salines and make his report. Payne told me that he had valued West's Saline at $24,000, but that the nation could not afford to take it, as money would be lost by it, the valuation being so high. The saline was not taken by the nation at that time, nor was it returned to Bluford West, and all those valuable improvements went to waste.

H. D. REESE.

[SEAL.] ALLEN ROSS,
Clerk Tahlequah District, C. N.

I hereby certify that I have been personally acquainted with H. D. Reese for a good many years; he has held the office of school superintendent, treasurer of the nation, clerk of the senate, judge of Tahlequah district, and several other offices of trust in the Cherokee Nation.

Given under my hand and seal of office at Tahlequah, Cherokee Nation.
[SEAL.] ALLEN ROSS,
Clerk T. D., C. N.

DECEMBER 6, 1880.

Statement.

TAHLEQUAH, *November 24, 1873.*

I am and have been well acquainted with the Bluford West lick for forty years. In its original state it was a dry lick, but was improved and the water obtained by boring.

I think that the treaty of 1846 provided for the payment of these salines.

I think that the West saline was valued about $20,000 or upwards, as provided for by said treaty.

I think that all other salines were settled for by the nation except this; the saline I was interested in was paid for. I received $1,050 for myself in the Lewis Rogers lick.

J. M. BRYAN.

EXECUTIVE DEPARTMENT, CHEROKEE NATION,
Tahlequah, December 22, 1882.

I hereby certify that the above is a correct copy of the statement of J. M. Bryan in reference to the Bluford West lick.

[SEAL]

JOHN L. ADAIR,
Assistant Executive Secretary.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 183.

MRS. JENNIE VAUGHN.

FEBRUARY 6, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JOLLEY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 2425.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2425) granting a pension to Mrs. Jennie Vaughn, submit the following report:

The claimant, Mrs. Jennie Vaughn, is 53 years of age and is a resident of the city of Pueblo and State of Colorado. In the year 1858 she was married to William Rowe Baxter.

William Rowe Baxter died June 16, 1864. He was mustered into the United States service on September 1, 1862, as captain of Company H, Ninth Regiment Minnesota Volunteers, and was killed at the battle of Guntown, Miss., on June 10, 1864.

Mrs. Jennie Vaughn was pensioned as the widow of William Rowe Baxter from the time of his death until her marriage to Thomas Vaughn, January 16, 1869.

Effie Baxter, minor child of William Rowe Baxter, received a pension as his minor child from January 16, 1869, until June 22, 1876.

Thomas Vaughn died in the year 1870 and at the time of his death he was the husband of the said Mrs. Jennie Vaughn, and at the present time Mrs. Jennie Vaughn is a widow and is unable to do much manual work, and is now in straitened circumstances, financially, and has no one upon whom she has any claims for support.

Your committee recommend that the bill be amended by striking out the words "place on" and inserting the words "restore to" between the words "to" and "the" on line 2 of the printed bill, and that the words "from and after the passage of this act" be added at the end of the bill, and that the bill as amended do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 184.

CAROLINE E. QUIGG.

FEBRUARY 6, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JOLLEY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 1938.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1938) granting a pension to Caroline E. Quigg, submit the following report:

Caroline E. Quigg, formerly Caroline E. Henry, was hospital nurse and in the employ of the United States from August, 1861, to May, 1864, and employed at Birds Point, Fort Donaldson, Mound City, Memphis, and on the hospital boat *Woodford*, and other places. During that time she was a faithful and efficient nurse.

She is 59 years of age, and suffers from strangulated hernia, brought on while in the service, for which she has constantly worn a truss and has undergone several surgical operations since 1863. Her husband is old and feeble and she is trying to pay off a mortgage on his farm by serving as a nurse. She does not receive a pension at the present time. She was employed by P. E. Yates, matron military hospital, Cairo Ill., and has no commission or discharge.

Your committee recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 185.

WATER WAY FROM HEAD OF LAKE SUPERIOR TO THE SEA.

FEBRUARY 8, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. LIND, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. Res. 11.]

The Committee on Interstate and Foreign Commerce, to whom was referred the joint resolution (H. Res. 11) to promote the improvement of the water way from the head of Lake Superior, by way of the Welland and St. Lawrence canals and St. Lawrence River, to the sea, respectfully report:

The value and extent of the commerce of the Great Lakes has been so frequently commented upon in this body of late years that it is not deemed necessary to quote figures or statistics to demonstrate its importance. Forming, as they do, the boundary line, in part, of eight of the larger States, the Great Lakes furnish a highway for the interchange of the productions of those Commonwealths that has no parallel in any other country. Thus far the traffic upon them has been confined almost wholly to the trade with Canada and the internal commerce between the States. The recent development of the untold resources of the great Northwest has, however, made the productions of that region not only a vital part of our internal commerce, but the leading factor of our foreign trade. To facilitate the internal commerce, by affording better facilities in the way of improved harbors, lights, and deepening the canals, Congress has not hesitated to vote appropriations by millions. Its action in this behalf has met the approval of the country.

Your committee believes that it is now equally important to facilitate and take the proper steps to secure a deep-water outlet for the foreign commerce originating in the States bordering on and tributary to these waters.

Public interest in this subject is evidenced by the action of conventions and commercial bodies, as well as by the several propositions submitted to Congress, looking to the opening of adequate water ways between the lakes and the ocean. The impracticability of deepening or improving the Erie Canal so as to admit the passage of ocean-going crafts seems to be admitted on all sides. But it is claimed, however, by persons who are competent to express opinions on the subject, that it is feasible to construct a canal from Oswego to the Hudson of sufficient size and depth to furnish deep-water passage from the lakes to the sea. That this may be true, and that the work may be undertaken, if practicable, is earnestly hoped for by all who are interested in the development of our means of communication. It stands admitted, how-

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 186.

SPECIAL RATES TO COMMERCIAL TRAVELERS BY RAILROAD COMPANIES.

FEBRUARY 8, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. RAYNER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 372.]

The Committee on Interstate and Foreign Commerce, having had under consideration the bill (H. R. 372) to amend section 22 of an act entitled "An act to regulate commerce," approved February 4, 1887, and amended March 2, 1889, so as to give common carriers the right to allow a greater weight of sample baggage to commercial travelers and their employés, and reduced rates of transportation, desire to incorporate so much of the report made by Mr. Mason, of Illinois, on a bill of somewhat similar import to the House from the Committee on Commerce, on the 26th of January, 1891, Fifty-first Congress, second session, as the report of this committee, as follows:

As to the commercial travelers, the committee are of the opinion that the request made by them is reasonable and just, and the committee sets out herein some of the reasons therefor which were presented by Mr. Pickering, chairman of the National Committee of Commercial Travelers, having this matter in charge, as follows:

[Extracts from argument in favor of the passage of House bill No. 10172, having for its object the amending of the interstate-commerce law so as to permit the granting of concessions by railroad companies to commercial travelers. Submitted by M. J. Pickering, chairman.]

There are over 180,000 regular commercial travelers in the United States who travel to sell merchandise at wholesale, taking orders from dealers for goods for subsequent delivery. They represent every business interest and industry of the country, being the pioneers in the forwarding of the internal commerce of the nation. It is estimated that on an average these men are engaged in traveling for about eight months in each year, thus spending two-thirds of their lives "on the road."

It seems as though this fact alone would entitle them to special concessions in rates of travel as compared with the ordinary or casual travel; but it must be remembered that it is the duty of this class of citizens to penetrate to the smallest towns and villages and to the most obscure cross-roads, substantially bringing the markets of the world to the smallest retail merchant, giving him the benefit of large lines of goods from which to make his selections, and the advantages resulting from competition in securing quotations from all the important markets of the country.

The advantages of these buying facilities accorded the merchant are directly reflected in the purchases of his customer, the public at large, in making their purchases of the dealer.

We therefore claim that the system of commercial traveling is not only a great commercial and economic educator, but it is directly of great financial benefit to every man, woman, and child in the land.

Prior to the passage of the interstate-commerce law it was the custom of many of the railroad companies to grant certain concessions to this class of travelers. Among these was a permit granted by the transportation company to the traveler known as an "excess sample baggage permit," entitling the holder thereof to carry a weight of sample baggage in excess of the amount of luggage allowed the ordinary traveler. These permits were issued under proper restrictions to those the nature of

whose business required the carrying of large lines of samples. The passage of the law necessitated the withdrawal of these permits, they having been held to be class discrimination, unless the transportation companies would consent to allow all travelers to carry the maximum amount of baggage allowed the commercial travelers. This, of course, being impossible, necessitated the withdrawal of the concession, which has led to the necessity of the curtailing of sample lines, and, as a consequence, less scope for selection by the people in purchasing their wares. Under existing circumstances the traveler who carries a necessarily large line of samples frequently pays over double the amount for the transportation of his baggage than he does for the transportation of his person.

The withdrawal of this concession has not been of any benefit to the ordinary traveler or to any other class of the public, the transportation companies now simply allowing all travelers 150 pounds of baggage free, this being the minimum amount allowed the ordinary traveler prior to the passage of the law.

Another important concession that was immediately withdrawn as a class discrimination immediately after the passage of the law was what was known as the "week-end excursion ticket." This ticket was good going from a given point at any time between 12 o'clock Saturday morning until 12 o'clock Sunday morning and returning at any time between Sunday evening and Monday 12 p. m. It was sold at one straight fare for the round trip, the object of the ticket being to encourage and assist the traveler in spending his Sundays at his home at no greater expense to himself or his employer than he would be subjected to in remaining over Sunday at the point at which his business called him.

It will be plainly seen that the withdrawal of this ticket by the roads having it on sale, which included many of the larger trunk lines, was an almost incalculable loss to the traveler, and was at the same time a considerable loss to the railroad company, they losing the proceeds of the sales of these tickets, which represented business that was absolutely created by the "week-end ticket" system, and which they would not have obtained had these tickets not have been on sale, for the reason that the traveler, while not being able to pay full fare for the privilege of spending Sunday with his family, would invariably take advantage of the opportunity to do so when it could be done at a reasonable financial sacrifice. It will be noted that there is nothing mandatory in the spirit of this proposed amendment; it simply aims to permit those transportation companies who may see fit to do so to grant concessions to regular commercial travelers, thus restoring them to their former status, as it was prior to the passage of the interstate-commerce law.

We believe that there is no greater duty imposed upon a government than the encouragement and conserving of the internal commercial relations of its people. This has always been the policy of the Government of England, which watches most vigilantly any proposed legislation that may in the slightest degree affect the interests of her merchants and manufacturers. The same policy is carried out by her colonies and dependencies. The Government of France has for years adopted a similar policy, and in recent years Germany, Italy, and Spain have in all of their legislation made marked advance in this direction.

In all of the countries named, and particularly in Great Britain, Canada, Australia, and France, commercial travelers are under all circumstances allowed a marked reduction in rates of transportation from that allowed the ordinary traveler.

The commercial travelers of America, and all of its business interests to which they are so indissolubly allied, anxiously await the action of our Government, as indicated by its House of Representatives, as to whether it will, like the governments of all other great commercial nations, so legislate as to forward the internal commerce of our country, or will, by its inaction and failure to pass House bill 10172, retard it.

The committee respectfully recommend the following amendments:

In line 6 strike out the letter "s" in the word "provisos," so as to make it read: "The following proviso."

In line 12 strike out after the word "employés" the words "who travels," and insert in lieu thereof the words "while traveling."

Strike out all after the word "delivery" in line 14, and insert the following: "Upon satisfactory proof that the persons applying for reduced transportation is a commercial traveler within the meaning of this section."

The committee further respectfully recommend, with the adoption of these amendments, that the bill do pass.

VIEWS OF THE MINORITY.

The undersigned can not agree to the report of the majority of the committee on this bill, for the following among other reasons: It is loosely and carelessly drawn. Under its provisions discriminations of the most flagrant character can be indulged in with impunity. The terms commercial travelers, wholesale business, or selling goods for future delivery, have no exact or technical meaning, nor are they defined by the law. The definition of these terms, and the construction of the law as to the parties to whom the special privileges may be extended, is left wholly to the caprice of the carrier.

But this is not the sole nor even the principal ground of our objection. The bill is bad in principle. It reinstates and legalizes the vicious practices sought to be prevented by the interstate-commerce act and in vogue before its passage. We believe that the underlying principle of that act is to prevent discrimination between persons and places. The benefits enjoyed by the public under its operation have been largely confined to this. It has been a defense to the railroad companies against the exactions of the large shippers as well as to the public against discrimination and favoritism by the carriers. This feature of the law it is proposed to repeal by this bill. This bill, it will be observed, does not require the carrier to give the same rates or privileges to all commercial travelers or their employers alike. They can be given to one firm, person, or corporation and withheld from another.

The consequence of this will be that large shippers and monopolies such as the Standard Oil Company, The Dressed Beef Combine, the Sugar Trust, and others, will not only demand and receive for themselves and their traveling agents free, or comparatively free, tranportation, but by threats of withdrawing their patronage they will compel the carriers to withhold all such concessions to their weaker competitors. That exactions of this character have been demanded and granted by the railroads to the Standard Oil Company and other monopolies in the past is in evidence before Congress. The passage of this bill would be but placing another weapon in the hands of the strong for the annihilation of the weak.

It is further believed that transportation charges partake very much of the character of taxes contributed by the public for services rendered by the State, or under its auspices, and we regard it as fundamental that the burden should fall equally upon all classes under the same conditions. Why the vendor of goods should be exempt, and not the buyer; the man who houses his stock in a ten-story building, and not the man who carries it on his back, is not apparent.

JOHN LIND.
S. R. MALLERY.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 187.

LIGHT AND FOG SIGNAL STATION NEAR BUTLER FLATS, NEW BEDFORD, MASS.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. RANDALL, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 421.]

The Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 421) for the establishment of a light and fog signal station near Butler Flats, New Bedford, Mass., respectfully reports:

The needs for this light are fully set out in the report of the Light-House Board, which is hereby adopted and appended hereto, and for the reasons therein set forth the committee reports said bill favorably and recommend that it do pass.

TREASURY DEPARTMENT,
Washington, D. C., January 21, 1892.

SIR: At the instance of the Light-House Board, to which was transmitted on the 19th of January, 1892, by the Subcommittee on Interstate and Foreign Commerce, for information, H. R. 421, appropriating $45,000 for the establishment of a light and fog signal near Butler Flats, New Bedford, Mass., I have the honor to state that the Light-House Board reports that the interests of commerce and navigation require that a light and fog signal be established near Butler Flats, as proposed in H. R. 421.

In its annual report for the fiscal year ending June 30, 1890, an extract from which is inclosed, recommendation was made that a light and fog signal be established at the locality in question. This recommendation was renewed in the Board's annual report for the fiscal year ending June 30, 1891, and an item of $45,000 for this object was included in the Board's annual estimates for the next fiscal year.

The Light-House Board is therefore of the opinion that the amount named in the bill is sufficient for the establishment of the proposed aids to navigation.

A copy of H. R. 421 inclosed.

Respectfully yours,

A. L. SPAULDING,
Acting Secretary.

Hon. R. Q. MILLS, M. C.,
Chairman of the Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

[Extract from report of the Light-House Board.]

The entrance near buoy No. 9, on the point of Butler Flats, is narrow, obscure, and difficult to find in snowstorms, fogs, and dark nights. If a light with a fog signal was placed on that point it would mark both the entrance and turning point;

would guide vessels to an anchorage in the lower harbor, and, with the light on Palmer Island, would guide them clear of North Ledge, Henrietta and Hurricane Rocks, in Buzzards Bay, and be a great service to the navigation of this important port. It is stated by the custom-house authorities that 1,814 vessels entered the port of New Bedford during 1887, not including yachts, fishing craft, or boats. It is also stated that the Vineyard Sound and Nantucket steamers took 75,000 passengers to and from this port and received $22,500 for freight carried. It is further stated that the New York propellers made 104 trips between New York and New Bedford, and received over $100,000 for freight carried. New Bedford is now said to be the third manufacturing city in Massachusetts, and the collector of the port states that about 500,000 tons of shipping came into the port during last year.

The Board, as stated in its last annual report, is of the opinion that the needs of commerce and navigation require the establishment of a light and fog signal at this point. It is estimated that they can be erected for $45,000, and it is recommended that an appropriation of this amount be made therefor.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 188.

LIFE-SAVING STATION AT GAY HEAD, COAST OF MASSACHUSETTS.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. RANDALL, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 191.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 191) to establish a life-saving station at Gay Head, on the coast of Massachusetts, having had the same under consideration, respectfully report the bill back, with amendment and accompanying papers, and recommend that it do pass.

TREASURY DEPARTMENT,
OFFICE OF GENERAL SUPERINTENDENT U. S. LIFE-SAVING SERVICE,
Washington, D. C., March 6, 1890.

SIR: I have the honor to acknowledge the reference of bill (H. R. 436) "To establish a life-saving station at Gay Head, on the coast of Massachusetts," forwarded by the Committee on Commerce of the House of Representatives for suggestions or observations in relation thereto.

The bill authorizes the Secretary of the Treasury to establish a life-saving station at or near Gay Head, Mass., at such point as the General Superintendent of the Life-Saving Service may recommend.

The proposed locality is situated at the west end of the island of Marthas Vineyard, on the south side of the main ship channel of Vineyard Sound, through which passes a great portion of the coastwise commerce of New England and Canada.

Although the channel here is wide, wrecks are not infrequent. During the last eleven years nine disasters have occurred in the immediate vicinity of Gay Head, involving a loss of ninety-nine lives and property estimated at $357,175, the most notable of them being the wreck of the steamer *City of Columbus*, which occurred in 1884.

In view of these facts, the establishment of a life-saving station at this point would seem to be very desirable.

The bill is herewith returned as requested.

Respectfully yours,

S. I. KIMBALL,
General Superintendent.

The SECRETARY OF THE TREASURY.

In a letter written to Mr. Fisher, clerk of the committee, dated January 22, 1892, Mr. Kimball writes as follows:

I will add that since the date, March 6, 1890, in which the report was made upon the bill to establish a life-saving station at Gay Head, two other vessels belonging to the U. S. Navy, the *Galena* and *Nina*, have been wrecked at this point.

Hon. SUMNER I. KIMBALL.
General Superintendent of the United States Life-Saving Service,
Treasury Department, Washington, D. C.:

DEAR SIR: The Boston Board of Trade, merchants, and others, in view of the appalling loss of life caused by the recent wreck of steamship *City of Columbus* on Devils Bridge Reef, at Gay Head, Vineyard Sound, and believing that many of those lost could have been saved had there been at that point a life-saving station equipped with modern appliances, a paid crew, and nightly patrol, petition your honorable Board to establish such a station at or near to Gay Head, Mass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 189.

QUESTIONS OF FACT.

FEBRUARY 8, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. BOATNER, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 5564.]

The Committee on the Judiciary, having had under consideration House bill 565, report the accompanying substitute therefor, and recommend that the original bill lie on the table.

The object of this bill is to prevent judges in the courts of the United States from unduly influencing juries by giving strong opinions on the facts of the case and thus practically dictating verdicts.

As the laws of some of the States permit the judges, to a certain extent, to sum up the facts proved in giving instructions to juries, your committee has not thought it advisable to go to the length of forbidding it in all cases, and report a substitute requiring judges in courts of the United States to conform in this respect to the laws of the States in which they may be sitting. This will produce uniformity of proceeding in Federal and State courts and accomplish the result desired.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 190.

ECKINGTON AND SOLDIERS' HOME RAILWAY COMPANY.

FEBRUARY 8, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. HEARD, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 410.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 410) to amend the charter of the Eckington and Soldiers' Home Railway Company, have had the same under consideration, and beg leave to submit the following report thereon:

Your committee respectfully represents that the said bill was submitted to the Commissioners of the District of Columbia and received their approval and recommendation, as expressed in their report to the committee, and which is herein incorporated, as follows:

OFFICE OF THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, January 30, 1892.

SIR: The Commissioners of the District of Columbia have, as requested by you, examined the inclosed bill, H. R. 410, Fifty-second Congress, first session, "to amend the charter of the Eckington and Soldiers' Home Railway Company," and beg leave to submit the following report thereon:

The Eckington and Soldiers' Home Railway Company is now a chartered company, running from G and Fifteenth streets NW. to the Soldiers' Home at Fourth street NE., extended through the suburb of Eckington, and also with line out North Capitol street and to Lincoln avenue near Glenwood Cemetery. It has put on a very superior class of cars. The road is operated by electricity; the part from Seventh street and New York avenue NW. to G and Fifteenth streets NW. with storage battery, and the rest of the route with trolley and overhead wires. We believe that the extensions asked for are in the line of public accommodation and are proper. We therefore report that the bill should pass, amended as hereinafter suggested.

The only objections we have heard to the route is that part on North Capitol street from C to B streets. The objector is an owner or resident on B street NW., near New Jersey avenue. We do not think his objection was a valid one.

Other objections were that the service now given to the suburban residents of Brookland was not satisfactory. They desired that cars be run more frequently over the route, and that when this charter was granted that a clause be inserted that cars should be run over the route not more than ten minutes apart. The suburbs are not densely populated at present and we believe from the history of this corporation that they will increase their service as fast as the business will warrant, and do not think it would be right to put this burden upon them at present.

Another objector desired that they be required to light all the poles used for their overhead wires. We consider this in the nature of a tax upon the use of overhead wires, and favor an amendment requiring this. We inclose the written communications addressed to us concerning this road.

The Commissioners recommend that after the word "branch," in line 16, section 1, the following be inserted, "and wherever more than one of the tracks of said railway company shall be constructed on any of the streets, avenues, or other public highways in the District of Columbia, the width of the space between the two tracks shall not exceed four feet." This, they are officially advised, is the width of the space between the tracks of the cable road on Broadway, New York.

Very respectfully,

J. W. DOUGLASS,
President Board of Commissioners.

Hon. J. T. HEARD,
Chairman Subcommittee, etc.

For most part your committee adopts the suggestions of the Commissioners; but in relation to that which recommends that the company be compelled to restore the broken lamps (or lights) upon their poles along the line of their road inside the city limits, we would respectfully submit that, since the company erected said lights originally, of its own volition, at considerable expense, and without being compelled to do so by its charter, and that subsequently Congress passed a general act which will require said company (as well as all others using overhead wires in the city limits) to take down said poles in a little over one year from this date, it would not be just to said company to require it to make this expenditure, especially since it now maintains, at its own expense, brilliant lights at all street crossings along its line.

The amendment suggested by the Commissioners, designed to regulate the width of space between the tracks of said road in the construction of the extension asked by this bill, is, in the opinion of your committee, a wise one, and they recommend its adoption with a slight modification, giving the Commissioners of the District discretion to allow a greater width, if a change in construction of cars should be adopted which would make 4 feet too narrow to admit of their safe passage. As cars are at present constructed, 4 feet gives space enough; but the tendency is to give increased width of cars, for the greater comfort of the passengers.

Your committee indorses the opinion expressed by the Commissioners to the effect "that the extensions asked for are in the line of public accommodation, and are proper." Beginning at the intersection of Fifth and G streets NW., at the northwest corner of Judiciary Square, one block of new track gives connection with the tracks of the Belt Line Railroad at Fourth and G streets, over which this line will run to New Jersey avenue between E and F streets, from which point less than two blocks of new track will connect it with the Metropolitan Railroad, on whose tracks it will run to the corner of C and North Capitol streets, and one more block of new tracks brings it to the proposed terminus at B and North Capitol streets. Thus, by subjecting less than four blocks of street, not now occupied by railroad tracks, to the use of this company, an additional direct connection is given between the Capitol and the Treasury Department and all the intervening points of interest and business, and by a system of mutual transfer already in operation with the Washington and Georgetown Railroad, a through line on one fare from the Capitol to Georgetown.

By the extension proposed from the point of departure from the line on New Jersey avenue, between E and F streets, to and along North Capitol street and north to New York avenue, direct connection will be made between the Capitol and the Government Printing Office; between the Government Printing Office and all points intervening between that and the Treasury Department, as well as with the main line and North Capitol street branch of this company's road at New York avenue.

By the terms of this bill this company will be compelled to compensate any railroad company over whose tracks it may run its cars, for such use; and in case the two companies interested can not agree on the amount to be so paid for such use, the question shall be settled by the supreme court of the District of Columbia, on a petition of either party.

With the amendment suggested, your committee respectfully recommends the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 191.

EFFECT OF THE PRESENT TARIFF ON AGRICULTURE.

FEBRUARY 8, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. HATCH, from the Committee on Agriculture, submitted the following

REPORT:

[To accompany Mis. Doc. 73.]

The Committee on Agriculture, to whom was referred the accompanying resolution of inquiry as to the effect of the present tariff upon agriculture, having given the same careful consideration, beg leave to report the same back to the House with the recommendation that it be adopted.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 192.

GEORGE W. THOMPSON.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3142.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3142) for the relief of George W. Thompson, have considered the same.

The committee submit the following report from the War Department:

Case of George W. Thompson, late of Twentieth Iowa Volunteers.

George W. Thompson was enrolled August 11, 1862, and mustered into service and appointed first sergeant August 25, 1862.

On rolls of his company from August 31, 1862, to February 29, 1864, he is reported first sergeant, present, and for March and April, 1864, second lieutenant, present.

On subsequent rolls to include February 28, 1865, he is borne as first sergeant, present for duty. He was mustered in as first lieutenant, same company and regiment, to date from March 10, 1865, and was honorably disharged as such July 8, 1865.

George W. Thompson was commissioned second lieutenant Company D, Twentieth Iowa Volunteers, to rank from August 20, 1863, vice Charles E. Squires, promoted first lieutenant same date; but the company was below the minimum number from August 20, 1863, to February 13, 1865, and not entitled under the provisions of the act approved March 3, 1863, and War Department General Orders, No. 182, of 1863, based thereon, to an officer of the grade of second lieutenant.

In 1887, the military record of Mr. Thompson was amended by this Department under the provisions of the acts approved June 3, 1884, and February 3, 1887, to show him recognized as first lieutenant Company D, Twentieth Iowa Volunteers, to date from January 31, 1865.

His claim for recognition as second lieutenant, same company and regiment, from August 20, 1863, January 31, 1865, could not be favorably entertained under the acts referred to, for the reason that the company was below the minimum number during the period claimed.

Respectfully submitted.

F. C. AINSWORTH.
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 23, 1892.*

The SECRETARY OF WAR.

It appears from the evidence in this case that during the period when it was claimed by this officer that he was entitled to pay and rank as second lieutenant, that his company was reduced below the minimum required by law.

Sections 19 and 20 of the act of March 3, 1863 (Vol. 12, U. S. Statutes at Large, pp. 734, 735), regulates promotions in such cases; the last clause of section 19 says that when consolidations are made "the regimental officers shall be reduced in proportion to the reduction in the number of companies." Section 20 says: "That whenever a regi-

ment is reduced below the minimum number required by law, no officers shall be appointed in such regiment beyond those necessary for the command of such reduced number."

A general bill is now being considered by Congress which, when enacted, will enable the War Department to give proper relief in cases of this character.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 193.

JOHN V. BOVELL.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2845.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2845) for the relief of John V. Bovell, have considered the same. The committee submit the following report from the War Department:

Case of John V. Bovell, late of Sixty-sixth Illinois Volunteers.

The records show that John V. Bovell was enrolled at Paris, Ill., September 10, 1861, and mustered in at St. Louis, Mo., October 10, 1861, as sergeant, Company E, Sixty-sixth Illinois Volunteers, to serve three years.

He is reported on muster roll from enrollment to October 31, 1861, present; January and February, 1862 (next roll on file), present as first sergeant; March and April 28, 1862, absent, sick in hospital since April 28, 1862, at Pittsburg Landing; May and June, 1862, absent, sick at Paris, Ill., since April 29, 1862; July and August, 1862, present, and he is so reported on subsequent rolls to December 31, 1862; January and February, 1863, present, promoted from first sergeant to second lieutenant, October 2, 1862; March and April, 1863, captured by the enemy at Rienzi, Miss., March 18, 1863.

He was dismissed the service in orders of which the following is a copy:

SPECIAL ORDERS, No. 203. } WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE, *Washington, May 5, 1863.*

[Extract.]

* * * * * * *

5. By direction of the President the following officers are hereby dismissed the service for neglect of duty and absenting themselves from their commands, thus allowing themselves to be captured by the enemy.

* * * * * * *

Lieut. John Bovell, Sixty-sixth Illinois Volunteer Infantry.

* * * * * * *

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant-General.

The records of prisoners of war show that Lieut. Bovell was captured at Corinth, Miss., on or about March 15, 1863. He was paroled at City Point, Va., May 25, 1863; reported at Camp Parole, Md., May 27, 1863; and was sent to his regiment June 8, 1863.

On March 23, 1864, an application for his restoration to service, or an honorable discharge on tender of resignation, was submitted to this Department, and was referred to the Judge-Advocate-General of the Army for review and report.

The following is a copy of that officer's report:

JUDGE-ADVOCATE-GENERAL'S OFFICE, *April 6, 1864.*

The papers relating to the case of Lieut. Bovell are respectfully returned to the Secretary of War. The within-named, Second Lieut. John V. Bovell, Sixty-sixth Illinois Volunteers, having been dismissed by Special Orders No. 203, May 5, 1863,

together with Lieut. Simpkins and Lieut. Lidick of the same regiment, for neglect of duty and absenting themselves from their commands, whereby they were captured by the enemy, a board of commission was convened by order of Brig. Gen. Carr, commanding left wing, Sixteenth Army Corps, September 14, 1863, to investigate the circumstances.

This board found Lieutenants Bovell and Lidick blameless, imputing the whole fault to Lieut. Simpkins, who was the ranking officer of the captured squad of men and officers and who gave the orders in consequence of which the command became exposed to attack from a superior force. The testimony taken and which is inclosed fully sustains this conclusion and shows Bovell and Lidick to have been prudent and efficient officers, while Simpkins was brave but indiscreet.

Lieut. Bovell applies to have the order of dismissal rescinded and to be restored with pay and allowances, and that he be granted an honorable discharge on tender of his resignation.

He files a petition in his favor signed by a large number of the officers of his regiment, and his own affidavit setting forth the facts substantially as found by the commission.

It appears that he was never mustered into the service, having recently been promoted when he went on the expedition on which he was captured. His commission from the Governor of Illinois sets forth that he was promoted for meritorious services at Fort Donelson and Pittsburg Landing.

While it is evident that the petitioner is entitled to relief, it is not perceived how he can be restored to the service into which he was never mustered, nor does it seem proper that he should receive full pay and allowances for the period of nearly a year, during which he has been out and, consequently, has performed no duty. Moreover, the vacancy has long since been filled.

It is submitted that the only relief in the power of the Department to afford, is, to rescind the order dismissing him, and, having directed his muster-in as of the date when he commenced to serve as a second lieutenant, to accept his resignation as of the date of the muster-in of his successor, to which date he will then become entitled to draw his pay.

J. HOLT,
Judge-Advocate-General.

In accordance with the recommendation of the Judge-Advocate-General of the Army, the following order was issued:

SPECIAL ORDERS, No. 147. } WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE, *Washington, April 14, 1864.*

[Extract.]

* * * * * * *

54. Upon the report of the Judge-Advocate-General of the Army, and a board of officers duly convened, so much of Special Orders, No. 203, series of 1863, from this office, as dismissed Lieut. John V. Bovell, Sixty-sixth Illinois Volunteers, is revoked, and he is hereby mustered into service as Second Lieutenant, to date October 2, 1862, and honorably discharged to date August 13, 1863, at which time another party was mustered into service to fill the vacancy.

* * * * * * * *

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant-General.

It is proper to add that Mr. Bovell has been recognized by this Department, under the provisions of the acts of Congress approved June 3, 1884, and February 3, 1887, respectively, as having been commissioned as second lieutenant, Company E, Sixty-sixth Illinois Volunteers, to take effect from September 29, 1862, the earliest date on which a vacancy occurred for him in that grade.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 27, 1892.*

The SECRETARY OF WAR.

The committee regret that they can not report the bill favorably, and they, therefore, report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 194.

PETER CASEY.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2936.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2936) for the relief of Peter Casey, have considered the same.

The committee submit the following report from the War Department:

Case of Peter Casey, late of Ninetieth Illinois Volunteers.

The records show that Peter Casey was mustered into service as captain Company H, Ninetieth Illinois Volunteers, September 15, 1862; was granted leave of absence for twenty days from August 8, 1863, and did not thereafter rejoin his command for duty.

On November 20, 1863, he was reported by the commanding officer of his regiment as follows: "I respectfully wish to inform the commander-in-chief of the Department of the Tennessee that during the month of June, present year, a document dated 'Headquarters, Ninetieth Regiment, Illinois Volunteer Infantry, Oak Ridge, Miss.,' was forwarded through the proper channels asking for the dishonorable dismissal of Capt. Peter Casey, Company H, of my regiment, from the military service of the United States, for the following causes:

"(1) For abandoning his company on or about the 9th day of June, 1863, in the city of Memphis, Tenn., when my regiment was on the march to Vicksburg, Miss.

"(2) For remaining absent without leave from the 9th day of June, 1863, to the 20th day of June, 1863.

"(3) For conduct unbecoming an officer and a gentleman and for willful neglect of duty; to which document I have received no answer.

"Since then the said Captain Casey has been 'absent without leave' from the 31st day of August, 1863; therefore, as one unworthy to hold the high and honorable position of a captain in the military service of the United States, I once more recommend that he be mustered out of the service with loss of pay from the date of his absence without leave.'

"His accounts are in a very complicated state with the Quartermaster and Ordnance Departments, at Washington, D. C. He would have been tried by court-martial for the first offense, but at the time it was found impracticable to have a court convened.

"His absence leaves no course for me to pursue but the one here followed."

Upon this report he was published officially January 11, 1864, to appear before the military commission, then in session in this city, to answer the charges. Having failed to appear, he was by direction of the President dismissed the service in orders of which the following is a copy:

SPECIAL ORDERS, No. 57. } WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE, *Washington, February 5, 1864.*

[Extract.]

* * * * * * * * *

34. The following officers (published officially January 11, 1864) having failed to appear before the military commission, instituted by Special Orders, No. 53, series of

Section 20, of the act of March 3, 1863 (Vol. 12, U. S. Statutes at Large, pp. 734, 735), says: That whenever a regiment is reduced below the minimum number allowed by law, no officers shall be appointed in such regiment beyond those necessary for the command of such reduced number.

A general bill is now being considered by Congress which, when enacted, will enable the War Department to give proper relief in cases of this character.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 196.

BENJAMIN F. BUCKNER, OR TAYLOR BUCKNER.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2896.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2896) for the relief of Benjamin F. Buckner, or Taylor Buckner, having considered the same, respectfully report:

The committee have been unable to obtain any evidence that the said Benjamin F. Buckner, or Taylor Buckner, was ever on the muster rolls of Company F, Second North Carolina Mounted Infantry.

The committee submit the following report from the War Department:

Case of Benjamin F. Buckner and Taylor Buckner.

The name Benjamin F. Buckner, or Taylor Buckner, has not been found on the rolls of Company F, Second North Carolina Mounted Infantry, and from a search of the records from 1882 it does not appear that any testimony in the case of either Benjamin F. or Taylor Buckner has been filed in this Department since that date.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 28, 1892.*

The SECRETARY OF WAR.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 197.

GEORGE JACKSON.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs submitted the following

ADVERSE REPORT:

[To accompany H. R. 3403.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3403) for the relief of George Jackson, having considered the same, respectfully report:

The committee have been unable to obtain any evidence that said George Jackson was ever on the muster rolls of Company E, Ninth Tennessee Cavalry.

The committee submit the following report from the War Department:

Case of George Jackson, of Grainger County, Tenn.

RECORD AND PENSION DIVISION, *January 28, 1892.*

The name George Jackson has not been found on the muster rolls of Company E, Ninth Tennessee Cavalry, on file in this Department.

It is proper to add that a similar report was made March 23, 1888, by the Adjutant-General of the Army, on House bill 7450, Fiftieth Congress, first session, with remark that "In the absence of any record of enrollment, muster-in, or service, this office has no power to give the man a military status."

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 198.

AUGUST SCHLAPP.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3128.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3128) for the relief of August Schlapp, have considered the same. The committee submit the following report from the War Department:

Case of August Schlapp, late of Fifth Iowa Cavalry Volunteers.

RECORD AND PENSION DIVISION, *January 28, 1892.*

August Schlapp was enrolled September 7, 1861, and mustered into service and appointed corporal, Company F, Fifth Iowa Cavalry, October 25, 1861. He was promoted commissary sergeant, Company F, May 17, 1863, and first sergeant April 19, 1864.

On rolls of his company from April 30, 1864, to June 30, 1865, he is reported first sergeant, present for duty. He was mustered out of service as first sergeant, with his company, August 11, 1865.

August Schlapp was commissioned second lieutenant Company F, Fifth Iowa Cavalry, to rank from November 20, 1864, but the company was below the minimum number from that date to its discharge and not entitled, under the provisions of the act approved March 3, 1863, and War Department General Orders No. 182, of 1863, based thereon, to an officer of that grade.

In 1888 the claim of Mr. Schlapp for recognition as second lieutenant, Company F, Fifth Iowa Cavalry, from November 20, 1864, to August 11, 1865, under the provisions of the act approved June 3, 1884, and the acts amendatory thereof, was denied by this Department for the reason that said company was below the minimum number during the period claimed.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

It appears from the evidence in this case that during the period when it was claimed by this officer that he was entitled to pay and rank as second lieutenant his company was reduced below the minimum required by law.

Sections 19 and 20 of the act of March 3, 1863 (Vol. 12, U. S. Statutes at Large, pages 734, 735), regulates promotions in such cases. The last clause of section 19 says that when consolidations are made "the regimental officers shall be reduced in proportion to the reduction in the number of companies."

Section 20 says that "whenever a regiment is reduced below the minimum number allowed by law, no officers shall be appointed in such regiment beyond those necessary for the command of such reduced number."

A general bill is now being considered by Congress which, when enacted, will enable the War Department to give proper relief in cases of this character.

The committee regret that they can not report the bill favorably, and they therefore report it back, with a recommendation that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 199.

AUSTIN A. SCOTT.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3126.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3126) for the relief of Austin A. Scott, have considered the same.

The Committee submit the following report from the War Department:

Case of Austin A. Scott, late of Second Iowa Cavalry Volunteers.

Austin A. Scott was enrolled September 14, 1861, and mustered into service and appointed sergeant, Company M, Second Iowa Cavalry, September 28, 1861. He was promoted to quartermaster-sergeant, Company M, June 1, 1864, and first sergeant, November 1, 1864.

On rolls of his company from October 31, 1864, to August 31, 1865, he is reported first sergeant present for duty. He was mustered out of service as first sergeant with his company, September 14, 1865, at Selma, Ala.

The records further show that Austin A. Scott was commissioned second lieutenant Company M, Second Iowa Cavalry, to rank from November 27, 1864, but the company was below the minimum number from that date to final discharge and not entitled under the provisions of the act approved March 3, 1863, and War Department General Orders No. 182, of 1863, to an officer of that grade.

In 1888, the claim of Mr. Scott for recognition as second lieutenant, Company M, Second Iowa Cavalry, from November 27, 1864, to September 14, 1865, under the provisions of the act approved June 3, 1884, and the acts amendatory thereof, was denied by this Department for the reason that said company was below the minimum number during the period claimed.

Respectfully submitted,

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 28, 1892.*

The SECRETARY OF WAR.

It appears from the evidence in this case that during the period when it was claimed by this officer that he was entitled to pay and rank as second lieutenant his company was reduced below the minimum required by law.

Section 20 of the act of March 3, 1863 (Vol. 12, United States Statutes at large, pp. 734, 735), says: That whenever a regiment is reduced below the minimum number allowed by law, no officers shall be appointed in such regiment beyond those necessary for the command of such reduced number.

A general bill is now being considered by Congress which, when enacted, will enable the War Department to give proper relief in cases of this character.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 200.

BENJAMIN F. HERSHE.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3129.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3129) for the relief of Benjamin F. Hershe, have considered the same.

The committee submit the following report from the War Department:

Case of Benjamin F. Hershe, late of Thirty-fifth Iowa Volunteers.

Benjamin F. Hershe was enrolled and appointed corporal Company B, Thirty-fifth Iowa Volunteers, August 15, 1862. He was promoted first sergeant February 19, 1863, and is borne as such present for duty to June 30, 1863.

Muster roll for July and August, 1863, shows him first sergeant, absent, "furloughed for thirty days from August 2, 1863, by order of Gen. Grant."

On rolls for September and October, November and December, 1863, he is reported first sergeant, present, and for January and February, March and April, 1864, first sergeant, absent, "detached on recruiting service January 29, 1864." From April 30, 1864, to June 30, 1865, he is reported first sergeant, present for duty. He was mustered out of service as a first sergeant, with his company, August 10, 1865, at Davenport, Iowa.

Special Orders, No. 83, Headquarters Thirty-fifth Iowa Volunteers, dated November 7, 1863, detailed Orderly Sergt. Benjamin F. Hershe as acting second lieutenant of Company B until further orders. Mr. Hershe was commissioned second lieutenant Company B August 8, 1863, vice Second Lieut. William M. Stewart, commissioned captain same date, but no vacancy occurred for the latter officer in his advanced grade until November 6, 1863.

From September 3, 1863, to August 10, 1865, Company B was below the minimum number and not entitled under the provisions of the act approved March 3, 1863, and War Department General Orders, No. 182, of 1863, based thereon, to an officer of the grade of second lieutenant.

In 1888 the claim of Mr. Hershe for recognition as second lieutenant Company B, Thirty-fifth Iowa Volunteers, from August 8, 1863, to August 10, 1865, under the provisions of the act approved June 3, 1884, and the acts amendatory thereof, was denied by this Department for the reason that said company was below the minimum number from date a vacancy occurred for him.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 28, 1892.*

The SECRETARY OF WAR.

It appears from the evidence in this case that during the period when it was claimed by this officer that he was entitled to pay and rank as second lieutenant his company was reduced below the minimum required by law.

Sections 19 and 20 of the act of March 3, 1863 (Vol. 12, U. S. Statutes at Large, pp. 734, 735), regulates promotions in such cases.

The last clause of section 19 says that when consolidations are made "the regimental officer shall be reduced in proportion to the reduction in the number of companies."

Section 20 says that "whenever a regiment is reduced below the minimum number allowed by law, no officer shall be appointed in such regiment beyond those necessary for the command of such reduced number."

A general bill is now being considered by Congress which, when enacted, will enable the War Department to give proper relief in cases of this character.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 201.

WILLIS F. HANSON.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3132.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3132) for the relief of Willis F. Hanson, have considered the same.

The committee submit the following report from the War Department:

Case of Willis F. Hanson, late of Twenty-fourth Iowa Volunteers.

Willis F. Hanson was enrolled as a private, Company I, Twenty-fourth Iowa Volunteers, August 9, 1862; was promoted corporal March 21, 1863, and sergeant April 29, 1863.

On rolls of his company for May and June, July and August, 1863, he is reported sergeant, absent, with remark "taken prisoner and paroled June 6, 1863; sent to Benton Barracks, St. Louis, Mo."; subsequent rolls to August 31, 1864, show him sergeant present for duty.

On rolls from August 31, 1864, to include date of muster out of the company, July 17, 1865, he is reported sergeant absent, "taken prisoner at battle of Cedar Creek, Virginia, October 19, 1864."

Prisoner of war records show that he "was captured at Cedar Creek, Virginia, October 19, 1864; brought from Lynchburg, Va., and confined at Richmond, Va., October 23, 1864; sent to Salisbury, N. C. November 4, 1864; paroled at Northeast Ferry, North Carolina, March 1, 1865."

He is reported at College Green Barracks, Maryland, March 8, 1865, and was sent to Benton Barracks, Missouri, March 9, 1865, where he arrived March 14, 1865; was furloughed March 16, 1865, for thirty days.

He was mustered out of service and last paid as a sergeant Company I, July 25, 1865. Mr. Hanson was commissioned second lieutenant Company I Twenty-fourth Iowa Volunteers, January 1, 1865, to fill a vacancy created by the resignation of Second Lieut. Charles M. Dawes, May 5, 1863, but said company was below the minimum from January 1, 1865, to date of its final discharge and not entitled under the provisions of the act approved March 3, 1863, and War Department General Orders, No. 182, of 1863, based thereon, to an officer of that grade.

On January 16, 1890, the claim of Mr. Hanson for recognition as second lieutenant Company I, Twenty-fourth Iowa Volunteers, from January 1, 1865, to July 25, 1865, under the provisions of the act approved June 3, 1884, and the acts amendatory thereof, was denied by this Department for the reason that said company was below the minimum number during the period in which recognition is claimed.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 28, 1892.*

The SECRETARY OF WAR.

It appears from the evidence in this case that during the period when it was claimed by this officer that he was entitled to pay and rank as second lieutenant, that his company was reduced below the minimum required by law.

Sections 19 and 20 of the act of March 3, 1863 (Vol. 12, U. S. Statutes-at-Large, pages 734, 735) regulate promotions in such cases. The last clause of section 19 says that when consolidations are made the regimental officers shall be reduced in proportion to the reduction in the number of companies.

Section 20 says that whenever a regiment is reduced below the minimum number required by law no officers shall be appointed in such regiment beyond those necessary for the command of such reduced number.

A general bill is now being considered by Congress, which, when enacted, will enable the War Department to give relief in cases of this character.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 202.

JOSEPH MURRAY.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3130.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3130) for the relief of Joseph Murray, have considered the same.

The Committee submit the following report from the War Department:

Case of Joseph Murray, late of Sixteenth Iowa Volunteers.

Joseph Murray was enrolled January 21, 1862, at Davenport, Iowa, and mustered into service as a private in Company E, Sixteenth Iowa Volunteers, January 24, 1862, to serve three years.

He was promoted corporal June 1, 1862; sergeant, September 5, 1863, and reënlisted as a veteran volunteer, January 4, 1864.

On muster roll of his company for July and August, 1864, he is reported, sergeant, "Absent, wounded since July 21, 1864;" on subsequent rolls, to and including March and April, 1865, as "absent, wounded," and on roll dated June 30, 1865, as present for duty.

He was mustered out of service, as sergeant, with his company, at Louisville, Ky., July 19, 1865.

Mr. Murray was commissioned second lieutenant Company E, Sixteenth Iowa Volunteers, May 17, 1865, to rank May 12, 1865, and a numerical vacancy existed for him as such from and after the latter date, but during the period from April 30, 1865, to July 19, 1865, said company was below the minimum number and therefore, under section 20 of the act approved March 3, 1863, War Department General Orders, No. 182, June 20, 1863, based thereon, and the third proviso of the act approved June 3, 1884, was not entitled to an officer of that grade.

In 1888, the claim of Mr. Murray for second lieutenant Company E, Sixteenth Iowa Volunteers, from May 12, 1865, under the provisions of the act approved June 3, 1884, and the act amendatory thereof, approved February 3, 1887, was denied by this Department for the reason that said company was below the minimum number and not entitled to an officer of that grade.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 23, 1892.*

The SECRETARY OF WAR.

It appears from the evidence in this case that, during the period when it was claimed by this officer that he was entitled to pay and rank as second lieutenant, his company was reduced below the minimum required by law.

Sections 19 and 20 of the act of March 3, 1863, U. S. Statutes at Large, vol. 12, pp. 734, 735), regulate promotions in such cases. The last clause of section 19 says that when consolidations are made the regimental officers shall be reduced in proportion to the reduction in the number of companies.

Section 20 says that, whenever a regiment is reduced below the minimum required by law, no officer shall be appointed in such regiment beyond those necessary for the command of such reduced number.

A general bill is now being considered by Congress which when enacted will enable the War Department to give proper relief in cases of this character.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 203.

HENRY H. WRIGHT.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3125.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3125) for the relief of Henry H. Wright, have considered the same.

The committee submit the following report from the War Department:

Case of Henry H. Wright, late of Sixth Iowa Infantry Volunteers.

Henry H. Wright was enrolled July 10, 1861, and mustered into service and appointed corporal Company D, Sixth Iowa Infantry Volunteers, to date July 17, 1861.

On rolls of his company from October 31, 1864, to June 30, 1865, he is reported first sergeant, present for duty. He was mustered out of service with the company as a first sergeant July 21, 1865, at Louisville, Ky.

Mr. Wright was commissioned second lieutenant Company D, Sixth Iowa Volunteers, January 1, 1865, to fill a vacancy created by the death of Cyrus P. Wright, May 16, 1864, but the company was below the minimum number on and from January 1, 1865, to date of its final discharge, and not entitled, under the provisions of the act approved March 3, 1863, and War Department General Orders, No. 182, of 1863, based thereon, to an officer of the grade of second lieutenant.

In 1886 the claim of Mr. Wright for recognition as second lieutenant Company D, Sixth Iowa Infantry Volunteers, from January 1, 1865, to July 21, 1865, under the provisions of the act approved June 3, 1884, was denied by this Department for the reason that said company was below the minimum number during the period claimed.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 28, 1892.*

The SECRETARY OF WAR.

It appears from the evidence in this case that during the period when it was claimed by this officer that he was entitled to pay and rank as second lieutenant that his company was reduced below the minimum required by law. Sections 19 and 20 of the act of March 3, 1863 (vol. 12, U. S. Statutes at Large, pp. 734, 735), regulate promotions in such cases. The last clause of section 19 says that when consolidations are made the regimental officers shall be reduced in proportion to the reduction in the number of companies.

Section 20 says that whenever a regiment is reduced below the minimum number required by law no officers shall be appointed in such

regiment beyond those necessary for the command of such reduced number.

A general bill is now being considered by Congress which, when enacted, will enable the War Department to give proper relief in cases of this character.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 204.

ORRIS O. KING.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2362.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2362) for the relief of Orris O. King, have considered the same.

The committee submit the following report from the War Department:

Case of Orris O. King, late second lieutenant Fifth New York Heavy Artillery.

RECORD AND PENSION DIVISION, *January 27, 1892.*

A report in this case was furnished the Committee on Military Affairs, House of Representatives, on H. R. bill No. 6228, Fifty-first Congress, first session, May 7, 1890. Following is a copy:

"Orris O. King was enrolled as a private, Company E, Fifth New York Heavy Artillery, February 12, 1862, and is borne as such, present for duty, to April 30, 1862.

"On rolls of his company from April 30, 1862, to August 31, 1862, he is reported 'absent on recruiting service in New York with Lieut. Bruner.' Roll of Company G (to which transferred) for September and October, 1862, reports him sergeant, present, and roll for November and December, 1862, as second lieutenant, present.

"He was mustered into service as second lieutenant, Company G, same regiment, to date February 10, 1863, and honorably discharged as such on tender of resignation, April 3, 1863.

"Orris O. King was commissioned second lieutenant, Fifth New York Heavy Artillery, to rank from October 27, 1862, and a vacancy occurred for an officer of that grade in Company G, on April 21, 1862, by the promotion of Second Lieut. John D. Robbins to first lieutenant.

"On September 21, 1889, the military record of Mr. King was amended by this Department, under the provisions of the act approved June 3, 1884, and the acts amendatory thereof, to show him recognized as second lieutenant, Company G, Fifth New York Heavy Artillery Volunteers from October 27, 1862, date of rank of his commission as such."

Since the date of the report quoted above the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

The SECRETARY OF WAR.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 205.

GEORGE BAGSHAW.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2132.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2132) for the relief of George Bagshaw, have considered the same.

The committee submit the following report from the War Department:

Case of George Bagshaw, late of the Fifteenth and Sixth Light Batteries, Massachusetts Volunteers.

The records show that George Bagshaw was enrolled December 20, 1863, in the Fifteenth Massachusetts Light Battery at Lowell, Mass., for the period of three years.

He is reported on the rolls of the battery as follows: April 30, 1864, present; June 30, 1864, present, awaiting trial for desertion; August 31, 1864, present, stop $60 for arrest; October 31, 1864, absent in confinement at New Orleans, La., awaiting sentence of court-martial; December 31, 1864, absent in confinement at Fort Jefferson, Fla., transferred to Sixth Massachusetts Battery; similarly reported to April 30, 1865; June 30, 1865, present.

He was tried by general court-martial for desertion (from May 12, 1864, to June 8, 1864), found guilty (confirming his plea), and sentenced to be confined at hard labor for six months, and to forfeit $8 per month of his monthly pay for the same period. The proceedings, findings, and sentence were approved, and Fort Jefferson, Fla., designated as the place of confinement by the commanding general, defences of New Orleans.

He was mustered out of service with the company (Sixth Massachusetts Battery) August 7, 1865, a private.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 28, 1892.*

The SECRETARY OF WAR.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 206.

JOHN C. BURDETTE.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 917.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 917) for the relief of John C. Burdette, have considered the same.

The committee submit the following report from the War Department:

Case of John C. Burdette, late of Company E, Thirty-ninth Indiana Volunteers.

The name of John C. Burdette has not been found on the rolls of Company E, Eighth Regiment Indiana Cavalry (Thirty-ninth Indiana Volunteers), nor has any record of his enrollment been found on file in this Department.

A report to this effect was furnished the Committee on Military Affairs, House of Representatives, on House bill No. 10460, Fiftieth Congress, first session.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 27, 1892.*

The SECRETARY OF WAR.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 207.

MICHAEL SHEEHY.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2471.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2471) for the relief of Michael Sheehy, have considered the same.

The committee submit the following report from the War Department:

Case of Michael Sheehy, late of First Michigan Cavalry Volunteers.

A report in this case was furnished the Committee on Military Affairs, House of Representatives, on H. R. bill No. 8444, Fifty-first Congress, first session, May 24, 1890. Following is a copy:

"Michael Sheehy was mustered into service as a private, Company E, First Michigan Cavalry, September 4, 1861, and promoted to corporal April 1, 1863.

"On rolls of his company from April 30, 1863, to June 30, 1864, he is reported corporal, present for duty.

"Roll for July and August, 1864, shows him corporal, 'absent wounded and in hospital since August 28, 1864.'

"From August 31, 1864, to December 31, 1864, he is reported corporal, 'absent wounded and in hospital since September 19, 1864,' and from December 31, 1864, to June 30, 1865, as corporal, present for duty.

"He was promoted to a sergeant July 1, 1865, and is borne as such, present for duty, to October 31, 1865.

"Rolls of Company F, to which transferred November 17, 1865, report him, sergeant, present for duty, to date of his discharge, March 25, 1866.

"No vacancy existed for a captain in Company E, from June 13, 1864, to November 17, 1865, nor in Company F, from the latter date to date of its final discharge.

"The records of this Department fail to show that Mr. Sheehy was commissioned as a captain of the First Michigan Cavalry, or that he rendered any service as such."

Since the date of the report quoted above the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 27, 1892.*

The SECRETARY OF WAR.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 208.

SAMUEL BEVINS.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2472.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2472) for the relief of Samuel Bevins, have considered the same.

The committee submit the following report from the War Department:

Case of Samuel Bevins, late of Fourth Michigan Volunteers.

Samuel Bevins was enrolled September 2, 1864, and mustered into service and appointed sergeant Company G, Fourth Michigan Infantry Volunteers, September 7, 1864.

On the muster rolls of his company from September 30, 1864, to April 30, 1865, he is reported sergeant, "Present for duty." Roll for May and June, 1865, reports him first sergeant, present, "Promoted to first sergeant May 28, 1865;" for July and August, 1865, first sergeant, "Absent, sick in division hospital;" for September and October, 1865, and to February 28, 1866, first sergeant, "Present for duty;" for March and April, 1866, first sergeant, "Absent with leave."

He was mustered out of service as a first sergeant at Detroit, Mich., June 14, 1866.

The records further show that Samuel Bevins was commissioned second lieutenant Company G, Fourth Michigan infantry Volunteers, to rank from October 24, 1865, vice Second Lieut. John Fuller, commissioned first lieutenant same date, and that the latter officer was mustered in his advanced grade December 30, 1865, and filled a vacancy created by the promotion of First Lieut. C. J. Fox to captain Company H, December 30, 1865.

C. J. Fox was commissioned captain Company H, to rank from October 24, 1865, vice Capt. P. C. Goodell, resigned September 18, 1865.

The records of both Fox and Fuller can be amended under the provisions of the act approved June 3, 1884, and the acts amendatory thereof, to show them recognized as captain and first lieutenant, respectively, to date October 24, 1865, and a numerical vacancy thereby created for Bevins as a second lieutenant from same date, but Company G was below the minimum number to date of its muster out of service May 26, 1866, and therefore, under section 20 of the act approved March 3, 1863, and War Department General Orders, No. 182, of 1863, based thereon, not entitled to an officer of the grade of second lieutenant.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 27, 1892.*

The SECRETARY OF WAR.

A general bill is now before Congress which modifies section 20 of act of March 3, 1863. This act as it now stands does not authorize the appointment of second lieutenants to companies which are reduced below the minimum.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 209.

FRITZ HORN.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3175.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3175) for the relief of Fritz Horn, have considered the same.

The committee submit the following report from the War Department:

Case of Fritz Horn, late of the Twenty-sixth Iowa Infantry Volunteers.

Fritz Horn was enrolled August 22, 1862, at Lyons, Iowa, and appointed fourth sergeant Company E, Twenty-sixth Iowa Infantry Volunteers. He is reported present to April 30, 1863. On company muster roll of June 30, 1863, "Absent sick in Fifteenth Army Corps hospital of wounds received in action near Vicksburg, May 19, 1863;" August 31, 1863, "Absent sick in hospital at St. Louis, Mo., of disease, July 5, 1863;" October 31, 1863, to August 31, 1864, present.

He was mustered into service as first lieutenant, same company, to date October 22, 1864; is reported present to April 30, 1865, and was mustered out of service with the company June 6, 1865.

Under the provisions of the act of Congress approved June 3, 1884, and the act amendatory thereof, approved February 3, 1887, his record has been amended to show him mustered in as first lieutenant, Company E, Twenty-sixth Iowa Volunteers, to date October 14, 1864.

It appears that he was paid on muster in $25 advance bounty by Capt. H. B. Hendershott, mustering and disbursing officer.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon U. S. Army.

RECORD AND PENSION DIVISION, *January 28, 1892.*

The SECRETARY OF WAR.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 210.

THOMAS C. WORKMAN.

FEBRUARY 8, 1892.—Laid on the table and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2460.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2460) for the relief of Thomas C. Workman, having considered the same, respectfully report:

The committee have been unable to obtain any evidence that said Thomas C. Workman was ever mustered into service as chaplain of Tenth Regiment Indiana Volunteers.

The committee submit the following report from the War Department:

Case of Thomas C. Workman, late Tenth Indiana Volunteers, three months organization.

Thomas C. Workman is reported on muster-out roll of field and staff, Tenth Indiana Volunteers, dated August 6, 1861, as chaplain, present and mustered out with regiment.

There being no evidence of his muster into service, his record was completed to show him mustered in to date from June 25, 1861, date of his appointment and entry upon duty as chaplain of said regiment. He was paid, pay and allowance of a chaplain, from that date to August 6, 1861, date of muster-out.

His application for recognition as chaplain, Tenth Indiana Volunteers, from April 25, 1861 (date of completion of regiment), under the provisions of the act of June 3, 1884, and the acts amendatory thereof, was denied as his muster into service as above stated recognized him in that grade and organization from date of appointment and entry upon duty.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *January 27, 1892.*

The SECRETARY OF WAR.

STATE OF INDIANA, *Boone County, ss:*

A. O. Miller and Felix Shumate, being first duly sworn, depose and say that they served in the Tenth Regiment of Infantry, Indiana Volunteers, three months service, 1861, and served through the West Virginia campaign under Gens. McClellan and Rosecrans; that Rev. T. C. Workman was chaplain of said regiment and served as such during the entire term of said enlistment, during which time he went on detached service several times to relieve sick captains from guard duty as well as other detached services. He was absent at the time the regiment was mustered in service.

ABRAM O. MILLER,
Late Captain Company C, Tenth Regiment Indiana Volunteers.
FELIX SHUMATE,
Late Captain, Tenth Indiana Volunteer Infantry.

Subscribed and sworn to before me this 3d day of November, 1891.
[SEAL.] JESSE REAGAN.
Clerk Boone Circuit Court.

The committee regret that they can not report the bill favorably, and they therefore report it back with a recommendation that it do not pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 211.

ST. JOSEPH'S CATHOLIC CHURCH, MARTINSBURG, W. VA.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2540.]

The Committee on War Claims, to whom was referred the bill (H. R. 2540) for the relief of St. Joseph's Catholic Church, at Martinsburg, W. Va., submit the following report:

The facts of this claim are fully set forth in a report made by the Committee on Claims of the Senate of the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill, with the following amendment:

In line 7, strike out "three thousand nine hundred and fifty," and insert in lieu thereof "two thousand eight hundred and eighty."

[Senate Report No. 409, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 294) for the relief of the trustees of St. Joseph's Catholic Church at Martinsburg, W. Va., have carefully examined the same, and respectfully report:

That they have examined the evidence filed in this claim, and find the facts to be as follows: That the St. Joseph Catholic Church, located in Martinsburg, W. Va., was a large building, the first story of which was built of cut limestone 10 feet high, the superstructure on which was constructed of brick. The size of the building was 100 feet long by 60 feet wide. The basement was occupied for secular and religious schools connected with the Catholic Church, and the upper building, or auditorium, was used exclusively for church purposes.

The church property was taken possession of on the 4th of March, 1862, by the Federal Army, the basement being occupied as a stable and the upper part of the building being used for a hospital.

The evidence filed in the case shows that the building was used for the purposes stated from the time possession was taken in 1862 until the close of the war, when it was turned over to the church authorities. The witnesses that prove the use and occupation are respectable citizens of the town of Martinsburg, the priest in charge of the building, and the soldiers who occupied the basement for a stable, all of whom fix a fair rent value for this property at $80 per month.

The correctness of the facts set forth in the petition and proof furnished is further certified to by a letter addressed by Charles Bowman, commodore, U. S. Navy, from his personal knowledge, to Quartermaster-General Meigs, dated May 30, 1874.

All of the men who are witnesses in the case are men whose loyalty to the Federal Government was unquestioned.

The following account was filed in the War Department in 1874, certified to the Third Auditor of the Treasury on April 9, 1875.

No action seems to have been taken, and the acting depot quartermaster at Washington, to whom it had been referred for report and recommendation, was subsequently

instructed to return the papers to the Quartermaster-General, under the theory, we suppose, held by the Department at that time, that it could not pass upon and allow claims for rent and occupation in the States declared in rebellion, although the county of Berkeley was within the Federal lines from the opening to the close of the war, with exception of the advance during the summer of the Army of Northern Virginia down the valley and when passing through its territory to Maryland.

The account as filed is—

For rent of church building for three years	$2,880
repairs to same	570
repairs to fence inclosing cemetery	500
Aggregating	3,950

It has not been customary for the committee to allow the cost of repairs when the rent has been allowed, and for this reason the item of $570 must be disallowed; and the repair of the fence inclosing cemetery, costing $500, must also be disallowed, under the former rulings of the committee; and there is not sufficient proof in the papers to show for what purpose and use the fence was taken by the Federal Army, nor is the proof conclusive that it was entirely consumed in any way by the Federal troops.

Your committee is of the opinion, however, that the item for rent of said building is a proper charge against the Government, and should be allowed. The bill is therefore reported favorable, with an amendment in line seven by striking out "three thousand nine hundred and fifty" and inserting "two thousand eight hundred and eighty," and as so amended it is recommended that the bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 212.

GERMAN EVANGELICAL CHURCH, MARTINSBURG, W. VA.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2546.]

The Committee on War Claims, to whom was referred the bill (H. R. 2546) for the relief of the German Evangelical Church, of Martinsburg, W. Va., submitted the following report:

The facts of this claim are fully set forth in a report made by the Committee on Claims of the Senate in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[Senate Report No. 97, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 289) for the relief of the trustees of the German Evangelical Church of Martinsburg, W. Va., have examined the same and respectfully report:

The committee find that all of the facts in this case are clearly and fairly stated in the report made by the Committee on Claims of the Senate during the first session of the Forty-third Congress, and have therefore adopted said report, and recommend the passage of the bill. The bill passed the Senate last session.

The report is as follows:

"The German Evangelical Church at Martinsburg, W. Va., was composed of Germans and citizens of German descent, mostly laboring people, attached to the Government of the United States, many of whom proved their loyalty by entering the Union Army during the war of the rebellion. The house in which they worshiped is valued by the witnesses at $3,500. On the night of the 17th of February, 1863, it was destroyed by fire. It was securely locked, and had not been used for religious worship for eighteen months previously to that time; the disordered condition of the country and the absence of many of the members, who had been driven from home and found employment in the service of the United States as soldiers or otherwise, and of their preacher, who was a chaplain in the Union Army, having rendered their regular worship impracticable.

"On the evening in question (February 17, 1863), Capt. G. W. Hicks, of the Ninth Virginia Infantry, arrived in Martinsburg, having in charge about sixty men, who escorted a Government train from Winchester to that post. They were quartered in this church by order of the post adjutant (Lieutenant Hyatt). A stove stood on the eastern side of the building, and a fire was kindled in it. The pipe became disjointed at or near the ceiling. It was joined again, or supposed to be, and the fire again started. The night was stormy, the soldiers wet and cold, and a quick fire made from the dry pine seats created such heat that the ceiling took fire near where the break in the stove pipe had occurred. This is one account.

"Another states that the stove was moved by the soldiers to the open space in the front part of the church, and the pipe detached from the chimney and run up as far as it would reach into the dome or cupola. The blaze of the fire out of the top of the pipe ignited the wood work. The stove was so moved in order to give the soldiers more space to hang and dry their clothes, wet from rain and snow.

"But, whichever account is the true one, it seems that the building was discovered to be on fire at 7 o'clock in the evening, and, all efforts to stay the progress of the flames proving ineffectual, the building was burned to the ground.

"It appears that those living in the neighborhood of the church refused to extend any aid to extinguish the fire, though appealed to for buckets and assistance.

"Possession of the building was obtained by the soldiers entering at the windows and opening the door from the inside.

"Such, in brief, are the facts.

"First. The soldiers were quartered in the church by order of the officer in command.

"Secondly. They were so quartered for purposes of shelter, warmth, and rest.

"Thirdly. The building was violently entered without the consent of the owners.

"Fourthly. It was dedicated to religious uses and used for no other purpose than the worship of God.

"Fifthly. The humble owners were, to a man, loyal to the United States, and many of them doing service in its armies.

"Sixthly. Its value was $3,500, and the congregation have not had the means to replace it up to this time, and the prayer of the memorial is to compensate them for the loss.

"Martinsbug is situate in Berkeley County, which furnished many conspicuous instances of loyalty during the war.

"On the 16th day of August, 1861, President Lincoln, by proclamation, declared the inhabitants of certain enumerated States to be in a state of insurrection against the United States, and commercial intercourse between the same was prohibited; but he excepted from the operation of this proclamation the inhabitants of that part of Virginia lying west of the Alleghany Mountains, and such other parts of that State and other States as might maintain a loyal adhesion to the Union and the Constitution, or might be from time to time, occupied and controlled by forces of the United States engaged in the dispersion of the insurgents.

"At a later date, on the 1st of July, 1864, another proclamation declared that Virginia, except certain enumerated counties, not embracing Berkeley, were in a state of insurrection and rebellion, so that the law for the collection of taxes there could not be executed.

"Again, on the 2d of April, 1863, another proclamation declared that the inhabitants of Virginia, except the forty-eight counties designated as West Virginia, were in a state of insurrection against the United States.

"Except for a short time during the war, Martinsburg was never in the enemy's lines. The troops of the United States had almost continuous and uninterrupted possession, and held such possession when this accident occurred. Shortly after the admission of West Virginia into the Union as a State, the counties of Berkeley (in which Martinsburg is situated) and Jefferson were, by a vote of the inhabitants, attached to the new State, and have been regarded as a part ever since.

"The committee are of the opinion that the trustees of the church should be allowed $2,500 for the loss of the church and furniture; and report herewith a bill and recommend its passage."

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 213.

METHODIST EPISCOPAL CHURCH, MARTINSBURG, W. VA.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2539.]

The Committee on War Claims, to whom was referred the bill (H. R. 2539) for the relief of the Methodist Episcopal Church of Martinsburg, W. Va., submit the following report:

The facts of this claim are fully set forth in a report made by the Committee on Claims of the Senate in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[Senate Report No. 1469, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 3461) for the relief of the trustees of the Methodist Episcopal Church of Martinsburg, W. Va., have had the same under consideration, and would respectfully report:

It appears from the evidence in the case that the Methodist Episcopal Church, located on the public square in the town of Martinsburg, was taken possession of on January 1, 1863, and occupied and used for the purposes of a hospital by the Union Army during the months of January, February, March, April, May, and June of that year, and during the month of May, 1864.

This was one of the last churches in that town to be seized by the military authorities for hospital purposes.

The continual movement of the armies up and down the valley of Virginia, the numerous battles in which the contending forces were engaged, and the constant occupation by the Union Army of Martinsburg, caused the military authorities to select it as a point at which to establish hospitals for the Army, and as it was then a town of but 2,500 inhabitants, with but few large buildings in it, they were compelled to occupy the court-house and all the churches of the town for the purpose of hospitals.

In the case of the Methodist Episcopal Church the members of the congregation, by reason of their loyalty to the Union, succeeded in preventing the occupation of their church until some time after all the others had been occupied, but the necessities of the military service compelled the use and occupation of this church for the purposes hereinbefore mentioned.

The claim of the church was filed for the destruction of thirty-two pews, two stoves, eight window blinds, and damages to windows, amounting in all to $466, and for rent of building to the amount of $1,400, in the Quartermaster's Department in March, 1867, and on August 9, 1867, it was referred by the Assistant Quartermaster-General to Gen. S. Van Vliet for investigation and report.

This was submitted by Gen. Van Vliet to a special agent of the Department, Mr. Thomas P. Schiffle, who reported that "the loyalty of the members of the above church, who instituted this claim, is beyond question," and then proceeds to analyze the items and to apply the evidence to it, and reduces the claim as to the pews, stoves, blinds, and damages to windows from $466 to $318.

On February 25, 1868, Gen. Van Vliet indorsed the report, with the recommendation that it be reduced to the damages reported upon, from $466 to $318.

On June 6, 1868, the Quartermaster-General, in a communication to the Secretary of War, in forwarding the report upon said claim, recommends the payment of $318, but suggests that under existing orders of the War Department "no rent can be paid for the use of churches or other public buildings." This was indorsed by Gen. Scofield, Secretary of War, on June 24, 1868.

The claim was then forwarded to the Third Auditor for allowance, who, on January 18, 1870, rejected the same upon the following grounds: He quotes a previous opinion rendered by the Department as covering this case, and excluding it from consideration. He says:

"In the matter of the Elk Branch Presbyterian Church, claim No. 18247, it was held by you (referring to the Second Comptroller), concurring in the opinion of the Third Auditor, that the act of February 19, 1867, extended to the counties of Jefferson and Berkeley, W. Va., and that claims on account of the occupation of and injury to real estate should not be entertained by the accounting officers of the Treasury where such claims originated in either of said counties, and during the war of the rebellion."

It has been by reason of said statute that churches that were occupied for hospital purposes in the counties of Jefferson and Berkeley during the war have been compelled to apply to Congress for relief, as those counties were regarded as within the territory in insurrection against the Government of the United States, although in fact they were in the occupation and possession of the Union armies throughout the whole war, with the exception of the movements of the Army of Northern Virginia, and the Army of the Valley during the summer months.

In every instance where these churches have been used for such purposes Congress has paid a reasonable rent and compensation for the same.

This case has been before Congress since 1872, but like many other claims has not been favorably acted upon by both Houses and become a law.

The proof would fully sustain the claim of $1,886 made by the trustees of said church, but as the rent is fixed higher than the committee has been allowing for the use and occupation of similar buildings, after careful consideration, your committee is of the opinion that the bill should be amended in line 7 by striking out "eight hundred and fifty," so that the amount allowed said church would be $1,000, and as so amended would report the bill favorably, and recommend that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 214.

C. M. SHAFFER.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2544.]

The Committee on War Claims, to whom was referred the bill (H. R. 2544) for the relief of C. M. Shaffer, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 882, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (Senate 292) for the relief of C. M. Shaffer, report as follows:

Your committee adopt the report hereto annexed from the Committee on Claims of the Senate of the present Congress, and report back the bill and recommend its passage.

Senate Report No 88, Fifty-first Congress, first session.

JANUARY 15, 1890.—Ordered to be printed.

Mr. FAULKNER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 292.]

The Committee on Claims, to whom was referred the bill (S. 292) for the relief of C. M. Shaffer, have considered the same and respectfully report:

We adopt the report hereto annexed made by this committee in the first session of the Fiftieth Congress, and recommend the passage of the bill.

The bill passed the Senate last session.

[Senate Report No. 1850, Fiftieth Congress, first session.]

It appears from the papers in the case that C. M. Shaffer, a citizen of Martinsburgh, W. Va., was, at the breaking out of the war, doing business as a merchant at that point. He owned a large, three-story warehouse, 60 by 35 feet, with a siding running to the platform of the said warehouse. Although the evidence is conclusive that the claimant was a bold, outspoken Union man, yet the locality of his warehouse induced the officers of the Federal Army to take possession of the same as the depository of commissary and quartermasters' stores. The evidence establishes the fact that this warehouse, during the entire period of the occupation of the town of Martinsburgh by the Federal troops, was used and occupied for the purpose aforesaid, and that during the period of thirty-six months the claimant was only paid rent for six months at the rate of $50 per month, the time for which he was paid being from March 1 to August 31, 1862. This sum of $300 was paid him by Captain Bowers after having been first approved by the Quartermaster-General in Washington.

The evidence filed in the papers establishes conclusively the following facts:

(1) That the claimant was a loyal man and a law-abiding citizen, outspoken in his declarations of sympathy for the cause of the Union.

(2) That his warehouse was occupied during a period of thirty-six months by Federal officers as a depository for commissary and quartermasters' stores, under promise that rent should be paid for the same.

(3) That the rent was paid for the first six months during its occupancy at the rate of $50 per month, amounting to $300.

(4) That the value of the rent as fixed by loyal citizens at the time of its occupancy was $75 per month, and by the evidence of witnesses filed in the case at $100 per month.

(5) That he accepted from the Government, for the first six months, rent at the rate of $50 per month, although at the time demanding more.

(6) That it was occupied and under the control of Captains Crawford, Turner, Douglass, Gray, Patton, and Moffett, and used as aforesaid, all of whom promised payment of rent, but who failed to give the proper vouchers by reason of their leaving the place suddenly, without the knowledge of the claimant.

(7) That the Government at the time recognized this claim as a proper liability and also the loyalty of the claimant, as shown by Exhibits A and B, hereto attached as a part of this report.

(8) That the claimant has for a number of years been making application to Congress for relief, but has so far failed to obtain it, although his case seems to be conclusively made out by the evidence filed.

Although the testimony would justify Congress in paying rent for this property at the rate of $75 per month or $100 per month, yet as the claimant accepted the sum of $50 per month as a fair rental value of the property in 1862, the committee feel that they should limit his claim to that amount. Under this view of the case the account would stand as follows:

Rent of warehouse for thirty-six months, at $50 per month	$1,800
Less six months' rent paid at $50 per month	300
Balance due	1,500

It is recommended that Senate bill 3015 be amended in line 6 by striking out the word "twenty-one" and inserting "fifteen," and as so amended the bill is reported favorably, with the recommendation that it do pass.

EXHIBIT A.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., October 21, 1867.

GENERAL: The inclosed claim in favor of C. M. Shaffer, of Berkeley County, W. Va., for lumber, spikes, nails, etc., stated at $49.92, and for rent of warehouse from March 20 to September 20, 1862, at $50 per month, $500, amounting in all to $349.92, having been examined at this office, is herewith respectfully referred to you for payment.

The following recommendation has been approved by the War Department, viz:

"That the claimant be allowed the sum of $349.92 in full of his claim for plank, nails, etc., and in full of rent for his warehouse at the Martinsburgh depot, while occupied by the United States, from March 20 to September 20, 1862, and for any and all claims that might originate from the occupancy by the United States of the said warehouse, and that the paying officer be relieved from the usual property accountability for the plank, spikes, etc., charged in the account first referred to."

R. A. Sommerville, Martinsburgh, W. Va., by whom the claim was presented, has been advised of this reference.

Very respectfully, your obedient servant,

CHAS. THOMAS,
Asst. Q. M. Gen'l in charge, Bvt. Maj. Gen'l, U. S. Army.

Bvt. Maj. Gen. S. VAN VLIET,
Deputy Quartermaster-General, etc., Baltimore, Md.

EXHIBIT B.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., June 23, 1888.

SIR: Your communication of the 21st instant relative to claim of Mr. C. M. Shaffer, of Martinsburgh, W. Va., for rent of a warehouse at that place, has been received.

In reply I have the honor to inform you that it appears from the records of this office that claims have been presented and filed here in favor of Mr. Shaffer as follows:

(1) Claim for rent of house, three rooms, as subsistence store and office, from January 17 to April 5, 1863, at $40 per month, $106.67. This claim was referred June 13, 1884, to Capt. R. S. Gardner, A. Q. M. at Harper's Ferry, Va., for payment upon proof of loyalty.

(2) Claim for stores alleged to have been taken from him by the United States on March 14, 1862, as follows:

1.080 feet of plank for platform	$21.60
Making six sections of platform	7.50
15 pounds of spikes used	1.50
678 feet of plank for bunks	13.56
72 pounds of nails used	5.76
	49.92

(3) Claim for rent of warehouse at Martinsburgh, for six months, from March 1 to August 31, 1862, at $50 per month, $300.

On October 31, 1867, these two claims were referred to General Stewart Van Vliet for payment; copy of letter herewith.

The records here afford no further information in regard to the above-mentioned claims, and no record is found of any other claim in favor of Mr. Shaffer, either for rent or for quartermaster's stores.

Very respectfully, your obedient servant,

S. B. HOLABIRD,
Quartermaster-General, U. S. Army.

Hon. CHARLES J. FAULKNER,
United States Senate.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 215.

ST. CHARLES COLLEGE, ST. CHARLES, MO.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4892.]

The Committee on War Claims, to whom was referred the bill (H. R. 4892) for the relief of St. Charles College, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 3092. Fifty-first Congress, first session.]

The Committee on War Claims, to which was referred the bill H. R. 5501, being a bill for the relief of St. Charles College, of St. Charles, Mo., respectfully report as follows:

That said St. Charles College is now and was for a long time prior to the occupation by the United States Government, as hereinafter mentioned, a duly-incorporated institution of learning under and by virtue of the laws of the State of Missouri.

The evidence submitted shows that the college buildings and grounds were taken possession of during the year 1861, and used and occupied from the 1st day of May, of that year, up to the 1st day of September, 1864, continuously as a post hospital for sick and disabled United States troops, and was, during the whole of that time, in the occupancy and possession of various commands of United States troops.

The testimony submitted in support of the bill further shows that said college building is a three-story brick, with stone basement, containing in all something over twenty rooms, and that the grounds on which said college was located constituted about one square or block of ground, and are situate near the center of the city of St. Charles, and constituted a very valuable property.

It is further shown that at the time the property was taken possession of by the United States troops the college was possessed of valuable scientific apparatus and a fine library, both of which were destroyed by the troops while it was so occupied by them, and that the said building was also badly damaged by reason of said occupation and use. The bill does not seek the allowance of any specific amount for the use and occupation of said property and damages thereto, but asks that the Secretary of War may cause to be investigated the character and extent of the said occupation and the reasonable value of such use, and that the Secretary of the Treasury be directed to pay such amount as may be found due.

Wherefore your committee recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 216.

GEORGE LEWIS COUSENS.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1116.]

The Committee on War Claims, to whom was referred the bill (H. R. 1116) for the relief of George Lewis Cousens, submit the following report:

The merits of a bill similar to this was carefully considered by the Committee on War Claims of the Fifty-first Congress, and favorably reported. Your committee submit the following extract from this report:

The claimant in this case, George Lewis Cousens, is a colored man, a citizen of Kentucky. His father was a free man and the claimant was never a slave. His character for honesty, veracity, and integrity is fully established by the affidavits produced to the committee in support of his claim.

In the summer of the year 1862 Cousens farmed with one Fielding Blenkenbaker, on shares, and was by virtue of the contract with said Blenkenbaker entitled to one-third of the crop of hay on the uplands and one-half of the hay raised on the bottom-lands of said Blenkenbaker's farm. After the hay had been made Cousens took his part to the city of Louisville and stacked it on a lot on Irvine street, between Maine and Ohio streets, in said city. A body of United States troops were camped near this place, and being in need of hay for provender for horses and mules, and bedding for man and beast, seized Cousens's property and used it. The claimant, on demanding pay for his hay, received four vouchers, each for $150. These vouchers he took to the custom-house in the city of Louisville, thinking that he could get his money. But payment being refused he concluded that he never would be paid, and, in ignorance of his rights, thought he would be compelled to suffer the loss. The four vouchers alluded to, which he had, have long since been lost. Recently, by the advice of a white friend, he determined to apply to Congress. Hence this bill. The claim is well established, the loyalty of Cousens is unquestioned, and your committee think he ought to be paid for his hay.

Your committee reports back the bill with the recommendation that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 217.

COL. JESSE H. STRICKLAND.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1413.]

The Committee on War Claims, to whom was referred the bill (H. R. 1413) for the relief of Col. Jesse H. Strickland, Eighth Tennessee Cavalry, have had the same under consideration, and respectfully report as follows:

This bill authorizes the Secretary of the Treasury to pay to Jesse H. Strickland the pay and allowances of colonel from January 30, 1863, to April 1, 1864.

Upon the facts presented in this claim the Committee on Military Affairs in the Fiftieth and the Committee on War Claims in the Fifty-first Congresses made favorable reports to the House. In the Fifty-first Congress a bill (S. 2832) was enacted into law authorizing the claimant to be mustered as a colonel for the purpose of prosecuting a claim for pension; and he was so mustered and commissioned, and is to-day on the pension rolls as colonel of the Eighth Tennessee Cavalry under said act. As proof of his service and his recognition by those in authority as colonel of the said regiment for the time for which compensation is asked, the following evidence is submitted:

REPORT.

The papers filed in this case may be considered as establishing the following facts:

That in January, 1863, Strickland received authority from the Government to recruit and organize a regiment of cavalry of loyal Tennesseeans. That he entered upon that duty and raised the Eighth Tennessee Cavalry (so named), but for some reason, which appears only in his own statement, was not mustered as colonel, although he performed the duties for months and was recognized as such.

That in September, 1863, he was sick with intermittent fever, and was certified from time to time, from September 4 to September 19, as being unfit for duty, surgeon on last date expressing opinion that he would not be able for duty for several weeks. It is most reasonable to accept the statement that to his sickness and his inability to perform active service his failure to be commissioned was attributable.

That since 1868, as is established by competent medical evidence, he has been more or less disabled by lung trouble, rheumatism, typhoid pneumonia, hemorrhages, and nervous prostration. One other witness places these troubles as far back as 1865, and there is evidence that he was physically sound before entering upon his military duties.

The evidence filed is not such, in the judgment of this committee, as to warrant them in recommending a pension at any arbitrary or fixed rating. We are of opinion, however, that justice would be conserved by giving this claimant a legal standing to prosecute his claim in the Pension Office, and accordingly recommend that the Senate bill pass with the following amendment: Strike out all after the word

"volunteers" in the seventh line and insert "and for the purpose of prosecuting a claim for pension said Jesse H. Strickland shall be considered as having been duly commissioned and mustered as colonel of said regiment, to date from the thirtieth day of January, A. D. one thousand eight hundred and sixty-three."

Brief of claim for invalid pension of Jesse H. Strickland.

This bill is to authorize the name of Col. Jesse H. Strickland to be placed on the pension rolls of the Government.

The reason for asking a special act instead of proceeding by claim in the Pension Bureau is this:

During the civil war Mr. Strickland was a resident of the State of Tennessee and was authorized by President Lincoln, through the War Office, to enlist a regiment of Tennessee troops for the United States service. Under this authority he did so proceed, and enlisted citizens and refugees of his State in numbers finally aggregating seven or eight hundred men. Many months of time and much money was spent in this work. It was performed under promise of being commissioned as colonel, and the regiment was first designated as the Fifth, but afterwards as the Eighth Tennessee Cavalry. As men were mustered in companies were formed and officers appointed, captains, majors, and finally a lieutenant colonel. During all this time Mr. Strickland was regarded as a colonel, so designated in official orders, so obeyed when he was in command. As colonel he was in command of Convalescent Camp, at Camp Nelson, Ky., and as such his name was signed and respected in the Quartermaster's and Medical Departments. But, unfortunately for him, before the work was complete and he mustered into service, he was taken sick, and for months was under medical treatment, and from the diseases thus contracted in the line of his duty in the service of the United States he has never recovered.

While thus sick and under medical care, in the fall and winter of 1863, the presence of troops at the front was urgent, so that Andrew Johnson, then military governor of Tennessee, feeling that the public interests must override private rights, consolidated with the Eighth Tennessee Cavalry some 200 recruits obtained by S.V. K. Patten, appointed Patten to be colonel, thus completing the regiment, sending it to the field, and depriving the claimant of his right to be mustered as a colonel.

Under these circumstances the Pension Office can not have jurisdiction of his pension claim, and he therefore asks pension by a special act of Congress. He herewith submits testimony to show his sickness in the service and continuously ever since. He is also asking of Congress a legal recognition of his rights as colonel, and evidence of his service as such has been filed with the proper committee of the House of Representatives.

All of which is respectfully submitted.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

In the matter of pension by special act, Jesse H. Strickland, late colonel Eighth Tennessee Cavalry, United States Volunteers.

On the 30th day of January, 1863, authority was granted me by President Lincoln to recruit and organize a regiment of cavalry of loyal Tennesseeans for service in the Federal Army, and while recruiting and in command of the said organization, and in the line of his duty at Camp Nelson, Ky., on or about the 1st of September, 1863, he contracted intermittent fever, and while convalescent went to Murfreesboro, Tenn., and thence to Nashville, Tenn., where he had a relapse of his disease, which terminated in typhoid fever and rheumatism, the former having resulted in lung complaint, hemorrhages, and general debility, and which, with rheumatism, have continually existed from time to time since leaving the service. The applicant has resided in Tennessee, and is now a resident of Brooklyn, Kings County, N. Y., where he has resided for the past twenty years. That prior to his entry into the United States service he was a man of good, sound, physical health, his weight at that time being 175 pounds and his present weight being 141 pounds. That he is now disabled from obtaining his subsistence by manual labor, by reason of his injuries above described, received in the service of the United States, and he therefore makes this declaration for the purpose of being placed on the pension rolls of the United States.

JESSE H. STRICKLAND,
Late Colonel Eighth Regiment Tennessee Cavalry, U. S. Vols.

LEXINGTON, *September 17, 1863.*

DOCTOR: This will be handed to you by Colonel Strickland, Eighth Tennessee Cavalry. You will please obtain for him one of the most comfortable rooms in the hotel, and consider him an *out patient*, and extend to him your best attention.

Respectfully yours,

ALEX T. WATSON,
Surgeon. U. S. V., Superintendent Hospitals, Central Kentucky.

A. A. Surgeon R. M. LACKY, U. S. A.,
In charge of Post Hospital, Crab Orchard, Ky.

MEDICAL DIRECTOR'S OFFICE,
Louisville, Ky., September 4, 1863.

I certify that I have carefully examined J. H. Strickland, colonel of Eighth East Tennessee Cavalry, and find him suffering from intermittent fever, and he will not be able to rejoin his regiment for duty for some days.

WILLIAM W. GOLDSMITH,
A. A. Surgeon, U. S. A., Member of Board of Examiners.

[Indorsements.]

MED. DIRECTOR'S OFFICE, 9TH A. C.,
Lexington, Sept. 9, 1863.

Col. Strickland should rest and take medicine for five or six weeks.

J. E. MACDONAL,
Surg., U. S. V. and Act. Med. Director 9th A. C.

H'DQ'R 9TH A. C., MED. DIR. OFFICE,
Lexington, Ky., Sept. 17, 1863.

Col. Strickland is not yet able, in my opinion, to join his command.

JOHN E. MACDONAL.
Surg., U. S. V. and Act. Med. Dir. 9th A. C.

HICKMAN BRIDGE HOSPITAL,
Camp Nelson, Ky., Sept. 19, 1863.

I have carefully examined Col. Strickland, of 8th E. Tenn. Cav., and find him unfit to perform field duties, because of debility following an attack of fever; and in my opinion it will be several weeks before he will be able for the duties of his corps.

A. C. SWARTZWELDER,
Surg., U. S. V., in charge.

DISTRICT OF COLUMBIA, *ss:*

In the matter of the pension claim of Jesse H. Strickland, late colonel of the Eighth Tennessee Cavalry (Tennessee Volunteers).

Personally came before me, a clerk of the supreme court in and for aforesaid District, R. J. Meigs, jr., aged 55 years, citizen of the city of Washington, D. C., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows: That I am well acquainted with the said Jesse H. Strickland, and was intimately acquainted with him for many years prior to the late civil war; that I knew of my own personal acquaintance that he was, prior to his services in the United States Army, a man of good sound health and constitution, and competent to render good military service in the Army of the United States.

I further declare that I have no interest in said case, and am not concerned in its prosecution.

[SEAL.] R. J. MEIGS, Jr.

DISTRICT OF COLUMBIA, *City of Washington, ss:*

In the matter of claim of Jesse H. Strickland, late colonel of Eighth Regiment Cavalry, Tennessee, United States Volunteers.

Personally came before me, a ——— ——— in and for aforesaid county and State, Marcus A. O'Brien, citizen of the town of Washington, District of Columbia, well kown to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows:

That I have known claimant almost continuously for twenty-one years, from 1865 to the present time, 1885; I know him to be by both report and official military documents that I have seen in his possession, colonel of the Eighth Regiment Tennessee Cavalry, United States Volunteers; I have seen him many times during the above period, in Nashville and Murfreesboro, Tenn., New York City, and Brooklyn, N. Y., and I have never known him to be a well or sound, healthy man; I know of his having typhoid fever, rheumatism, and lung trouble when I first became acquainted with him.

It has always been my conviction and belief that his broken-down health was caused by exposure and hardships incurred during his military service to the United States.

And I further declare that I have no interest in said case, and am not concerned in its prosecution.

MARCUS A. O'BRIEN.

To the above report the following additional testimony is submitted:

DISTRICT OF COLUMBIA, *ss:*

On this 28th day of May, in the year of our Lord 1890, before me, the subscriber, a notary public in and for the District aforesaid, personally appeared John K. Miller, 51 K street, NE., Washington, D. C., and makes oath in due form of law, deposes and says, that he was colonel of the Thirteenth Regiment Tennessee Cavalry, U. S. Volunteers, and acting brigadier-general of the Third Brigade, Third Division, Ninth Army Corps, Army of the Cumberland, said brigade being composed of the Eighth, Ninth, and Thirteenth Regiments of Tennessee Cavalry.

I am personally and well acquainted with Colonel Jesse H. Strickland, late colonel of the Eighth Regiment Tennessee Cavalry, United States Volunteers, whose regiment was in my brigade. Colonel Strickland was at that time being on sick list and in hospital and unfit for active field duty. His regiment was consolidated with some 200 recruits under command of Lieutenant-Colonel Brown. Deponent further says that he was the first man mustered into the service in his regiment of the rank of colonel and drew his pay and allowances as such before his regiment was half completed. Others who were recruiting Tennessee regiments for the volunteer service of the Federal Army were mustered with the rank of colonel and also drew their pay and allowances as such before they had recruited and mustered into the service fifty men.

Colonel Strickland was regarded as a good and excellent officer and organizer of troops, and received his appointment and authority from President Lincoln. His regiment rendered good and faithful service to the U. S. Government during the war.

JOHN K. MILLER,
Late Colonel Thirteenth Tennessee Cavalry.

Sworn and subscribed to before me this 28th day of May, A. D. 1890.

JAMES D. MAHER,
Notary Public.

Francis W. Strickland, first lieutenant of said regiment. in an affidavit, says:

"I was appointed by Col. Jesse H. Strickland, in May, 1863, first lieutenant of the Eighth Regiment of Tennessee Cavalry Volunteers, then being recruited and organized and in camp at Camp Nelson, Kentucky.

"I reported for duty at Camp Nelson in May, 1863, and was mustered in on Col. Strickland's letter of appointment, as were all the other officers of the command, and his orders were obeyed as colonel commanding Eighth Regiment, and he was recognized by the general commanding post, S. S. Fry, and others."

WASHINGTON, D. C., *January 15, 1892.*

DISTRICT OF COLUMBIA, *ss:*

I, J. T. Abernathy, residing at 416 Sixth street NW., city of Washington, do hereby make affidavit:

That I was colonel of the Tenth Tennessee Cavalry, U. S. Volunteers, in the late war; that I am personally and intimately acquainted with Col. Jesse H. Strickland, formerly of the Eighth Tennessee Cavalry, having first met him in 1863, and having known him well ever since.

That in the latter part of said year, 1863, while on official visits to Nashville, I frequently met him at the office of the then military governor of Tennessee, Andrew Johnson, and remember distinctly that he was constantly recognized, both officially and personally, by said Andrew Johnson, military governor, as the colonel of the organization known as the Eighth Tennessee Cavalry, U. S. Volunteers, he at that time being universally recognized by all military men as being on recruiting service for his regiment, then in camp at Camp Nelson, Ky.; that he wore the complete uniform of a colonel, and was ordered and obeyed as colonel in all respects, including matters relating to quartermaster's stores, commissary stores, and medical supplies; that he was regarded as an active, efficient, able military man and a good organizer of troops, and that the organization and recruiting of refugees, in which he was engaged, was considered an unusually arduous, difficult, and dangerous duty, as compared with the recruiting of other troops; and it was clearly understood by myself and other officers at headquarters that Col. Strickland was appointed and acting under authority from President Lincoln.

I further make affidavit, of my own knowledge, that at that time the War Department frequently allowed to those recruiting regiments of Tennessee refugees, the pay and allowance of colonels before they had recruited even so much as a company of men. I also subsequently learned that while Col. Strickland was convalescent and unfit for active military duty, one Patton was mustered in as colonel in his stead, and that Col. Strickland thereby suffered not only in loss of rank, but in expenditure of personal means, for which he has never been reimbursed.

I further make affidavit that I am in no way interested in the claim of Col. Strickland or the results of its prosecution.

J. T. ABERNATHY.

CITY OF WASHINGTON, *District of Columbia, ss:*

Before me, John H. Rogers, a notary public in and for the District of Columbia, personally appeared the said J. T. Abernathy, personally known to me to be a man of good repute for veracity, and who, in my presence, subscribed and took oath to the foregoing statement, with the contents of which he states that he is fully and minutely acquainted.

[SEAL.]

JOHN H. ROGERS,
Notary Public in and for District of Columbia.

CONVALESCENT CAMP,
Camp Nelson, Kentucky, December 28, 1863.

SIR: Inclosed please find receipts and invoices for clothing on hand in convalescent camp on my arrival, October 21, 1863. Sign invoices and return the same to me to enable me to render my returns for the month of October, 1863.

I am, sir, very respectfully,

F. A. STITZER,
Lt. and A. A. Q. M.

Colonel STRICKLAND.

Mr. Strickland continued in command of said camp until some time in January, 1864, when he was regularly relieved. He at once proceeded to Nashville and recruited a number of men for the said regiment, which was at the time in the neighborhood of Knoxville. While at Nashville his military standing was recognized, as shown by the following letter:

STATE OF TENNESSEE, EXECUTIVE DEPARTMENT,
Nashville, February 2, 1864.

SIR: Complaint having been made to me that you forcibly demanded the keys of a private residence in Nashville and notified the party in possession to deliver the same to you, you will please call at my office at the earliest moment practicable in regard to the same.

I am, respectfully,

ANDREW JOHNSON,
Military Governor.

Colonel STRICKLAND,
Of East Tennessee Cavalry.

DISTRICT OF COLUMBIA, *City and county of Washington, ss:*

On this 25th day of May, A. D. 1886, personally appeared before me Felix A. Reeve, aged forty-nine years, a resident of said city and county, whose post-office address is Washington, D. C., who, being duly sworn, declared in relation to aforesaid case as follows: That he was colonel of the Eighth Tennessee Volunteer Infantry in the late war of the rebellion; that he was appointed colonel by the Secretary of War on the 5th of September, 1862, and was mustered as such by his order on the 16th of September, 1862.

Affiant states that he was appointed and mustered as colonel before he had recruited any men for his regiment; and that several other colonels of loyal Tennessee regiments—Robert K. Byrd, Robert Johnson, and probably others—were appointed, mustered, and drew pay before they enlisted any recruits for their regiments. Affiant, however, refers to the records of the War Department for a fuller statement of the facts.

Affiant further states that he was acquainted with Colonel Strickland in 1862; that for a short while he was connected with his regiment, and was authorized to recruit for it; that as he understands and believes, he afterwards recruited for the Eighth Tennessee Volunteer Cavalry, and acted as colonel for several months; but as to this affiant's information is hearsay, and he is unable to state positively with regard to Colonel Strickland's connection with said regiment. Affiant further declares that he has no interest in said case, and is not concerned in its prosecution.

FELIX A. REEVE.

STATE OF ILLINOIS, *County of Shelby, ss:*

In the matter of the claim of Jesse H. Strickland, late colonel of the Eighth Tennessee Cavalry, now pending in Congress.

On this the 17th day of February, A. D. 1888, personally appeared before me, a notary public in and for the aforesaid county, duly authorized to administer oaths, John L. Kirk, aged forty-six years, a resident of Moultrie County, Illinois, whose post-office address is Windsor, Shelby County, Illinois, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to the aforesaid case as follows:

That he entered the Fifth Tennessee Cavalry Volunteers (afterwards changed to the Eighth Tennessee Cavalry) in the spring of 1863 and was appointed lieutenant in Company D of said regiment, and acted as said lieutenant until the 12th day of August, 1863, and that he was then mustered as captain of Company E of the same regiment, and that Jesse H. Strickland and T. J. Copps was recognized as colonel and lieutenant-colonel during the time that I was with the regiment; and he further declares that he was discharged from said regiment at Nashville, Tenn., on the 3d day of May, 1864, by reason of the consolidation of Eighth and Tenth Tennessee Cavalry.

He further declares that he has no interest in said case and is not concerned in its prosecution.

J. L. KIRK.

STATE OF ILLINOIS, *County of Shelby, ss:*

Sworn and subscribed before me this day by the above-named affiant, and I hereby certify that I read said affidavit to said affiant, including the no words erased and no words added, and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution, and that said affiant is personally known to me, and that he is a credible person.

Certificate on file.

[SEAL.] JAMES A. MOBERLEY,
Notary Public.

Affidavit.

STATE OF TENNESSEE, *County of Grainger, ss:*

In the matter of claim of Jesse H. Strickland, late colonel of Eighth Tennessee Cavalry, now pending in Congress.

Personally came before me, a clerk of the circuit court in and for aforesaid county and State, John M. Sawyers, age sixty-two years, resident of the town of Rutledge, county of Grainger, State of Tennessee, well known to me to be reputable and en-

titled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows:

That he was among the first men who joined the Eighth Tennessee Cavalry, and aided in its organization, and was appointed on April 15, 1863, senior major by Jesse H. Strickland, who was colonel of said regiment by appointment of Abraham Lincoln, President of the United States, and that he knows from personal official knowledge that the said Jesse H. Strickland was colonel of the said Eighth Tennessee Cavalry, by appointment, from its first organization in the early part of 1863 to April 15, 1864, when Samuel K. N. Patton was mustered colonel of said regiment during the absence of Colonel Strickland.

When I last saw Colonel Strickland he was sick, but can not state what was the matter with him.

Further, Col. Samuel K. N. Patton was mustered colonel on account of consolidation with the Eighth and Tenth Tennessee Regiments Cavalry.

Further the deponent saith not.

I further declare that I have no interest in said case, and am not concerned in its prosecution.

J. M. SAWYERS.

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant, and acquainted him with its contents before he executed the same. I further certify that I am in no wise interested in said case, nor am I concerned in its prosecution.

Witness my hand and official seal this 17th day of February, 1888.

W. H. CADRE,
Clerk of the Circuit Court for Grainger County, Tennessee.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

In the matter of claim for correction of muster claim of Col. J. H. Strickland, Eighth Regiment Tennessee Cavalry Volunteers.

Personally came before me Francis W. Strickland, a citizen of the town of Brooklyn, county of Kings, State of New York, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows: I was appointed by Col. Jesse H. Strickland, in May, 1863, first lieutenant and commissary and subsistence of the Eighth Regiment Tennessee Cavalry Volunteers, then being recruited and organized and in camp at Camp Nelson, Kentucky. I reported for duty at Camp Nelson, Kentucky, in May, 1863, and was mustered in on Colonel Strickland's letter of appointment, as were all the other officers of the command, and his orders were obeyed as colonel commanding Eighth Regiment, and he was recognized by the general commanding post, S. S. Fry, and others; General A. E. Burnside, then commanding Department of the West, in which department the regiment was doing duty.

His post-office address 366 A Fifth street, Brooklyn, N. Y.

He further declares that he has no interest in said case, and is not concerned in its prosecution.

FRANCIS W. STRICKLAND,
Late First Lieut. and C. S. Eighth Tenn. Cav. U. S. Vols.

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution; and that said affiant is personally known to me; that he is a creditable person, and so reputed in the community in which he resides.

Witness my hand and official seal this 16th day of February, 1886.

[SEAL.]

CHARLES S. BUNDY,
Notary Public, District of Columbia.

General affidavit.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

In the matter of claim of Col. J. H. Strickland for muster in United States service.

Personally came before me, a ——— in and for aforesaid county and State, Patrick H. Jones, aged ——— years, citizen of Port Richmond, county of Richmond,

State of New York, well known to me to be reputable and entitled to credit, and who, being duly sworn, declared in relation to aforesaid case, as follows:

That he has been acquainted with claimant for about twenty-three years.

That he was colonel of the One hundred and fifty-fourth Regiment New York Infantry Volunteers, and his command was in second division of First Army Corps, which was operating under General Sherman, commanding department.

That in or about December, 1863, he became acquainted with the claimant in Tennessee and found that he was engaged in recruiting a regiment for cavalry service (the Eighth Tennessee Cavalry Volunteers).

Also that Col. Strickland was recognized in such duty officially by orders and correspondence from headquarters.

He further declares that he has no interest in said case, and is not concerned in its prosecution.

PATRICK H. JONES,
Late Brig. Gen. Vols.

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in said case nor am I concerned in its prosecution; and that said affiant is personally known to me; that he is a creditable person, and so reputed in the community in which he resides.

Witness my hand and official seal this the 13th day of February, 1886.

[Seal.] CHARLES LANMAN,
Notary Public.

General Affidavit.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

In the matter of correction of muster in case of Col. J. H. Strickland, formerly colonel commanding Eighth Regiment Tennessee Cavalry Volunteers, United States Army.

Personally came before me, a notary public in and for aforesaid county and the District of Columbia, who, being duly sworn, declared in relation to aforesaid case, as follows:

I have been acquainted with Col. J. H. Strickland for about twenty-three years. I was a member of the staff of General H. P. Van Cleve, in 1864, at which time I met and became acquainted with said Colonel Strickland. General Van Cleve was then in command of the post of Murfreesborough and the railroad defenses between Nashville and Tullahoma, Tenn., Department of the Cumberland. I saw Colonel Strickland daily for some time at headquarters and other places, where he was understood to be and regarded as colonel of the Eighth Regiment Tennessee Cavalry, United States Volunteers, and was then (1864) on recruiting service.

WM. H. H. SHEETS,
Late Captain and A. A. A. G., staff of Brig.-Gen. H. P. Van Cleve, Commanding Post of Murfreesborough, Dept. Cumb.

(Address of affiant at Register's Office, Treasury Department, Washington, D. C.)

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution; and that said affiant is personally known to me; that he is a creditable person, and so reputed in the community in which he resides.

Witness my hand and official seal this 15th day of February, 1886.

[SEAL.] JOHN W. P. MYERS,
Notary Public.

He was also recognized as colonel in many ways by the officers of the Army.

In view of all the facts in this case, and that Col. Strickland gave fourteen months of his life to the service of his country and spent about $2,000 of his private funds in recruiting troops, beside contracting a life-long disease, a disease which in all probability prevented Mr. Strickland from being mustered as colonel, it appears to your committee that this is a just claim.

The demands for troops in the field being urgent, Andrew Johnson, as military governor of the State while Mr. Strickland was sick, consolidated with the Eighth Tennessee Cavalry some two hundred men recruited by S. K. N. Patton, who was mustered in as colonel of the said regiment.

By this exigency of the public service and the misfortune of sickness Mr. Strickland was then thrown out, and lost all the results of his expenditures of time, labor, and money.

Believing the case a meritorious one, your committee would recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 218.

JOHN SULLIVAN.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3353.]

The Committee on War Claims, to whom was referred the bill (H. R. 3353) for the relief of John Sullivan, submit the following report:

The facts out of which this bill for relief arise will be found stated in House Report from the Committee on War Claims of the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 3033, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2743) for the relief of John Sullivan, report as follows:

Your committee adopt the report, hereto annexed, from the Committee on War Claims of the Fiftieth Congress, and report back the bill and recommend its passage.

[House Report No. 479, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3493) for the relief of John Sullivan, report as follows:

That this is a claim for prize money due the claimant, John Sullivan, late of the U. S. S. *Marmora*.

Your committee append herewith letters from the Treasury Department in reference to this claim, and ask that it be made a part of this report.

Your committee report back the bill and recommend its passage.

TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE,
Washington, D. C., March 17, 1886.

SIR: In answer to the inquiry of J. D. Sullivan, referred by you to this office, and herewith returned, you are informed that the rolls of the U. S. S. *Marmora* show that Sullivan joined that ship on October 24, 1862, and remained upon the vessel until August 16, 1863, when he was discharged. During the period above given but one prize was captured for which any award has been made, viz, "cotton," taken April 12, 1873, and it would appear that Sullivan's name should have been on the prize list therefor, but it is not so borne; his share as a seaman therein would have have been about $34.

For the reasons given in the inclosed copy of a letter of the Navy Department it would seem that Mr. Sullivan's only recourse is to apply to Congress. He is mistaken in supposing that there are any other awards in which he would share.

Very respectfully,

C. M. SHELLEY,
Auditor.

Hon. J. H. ROWELL, M. C.,
House of Representatives.

NAVY DEPARTMENT, *January 18, 1882.*

* * * * * * *

In view of the fact that prize money, in all cases, has been so apportioned among the persons whose names are borne upon the prize lists as to exhaust the entire fund for distribution, and that the share of each person remains to his credit until paid, unless forfeited by desertion or otherwise, I am of the opinion that this Department has no authority, at this late day, to order any alteration or correction of prize lists upon which an apportionment has been made, and thus recognize claims for the payment of which there is no available fund. * * * For the reasons above stated it would seem that Congress alone can grant relief in such cases.

* * * * * * *

Very respectfully,

W. H. HUNT,
Secretary of the Navy.

O

2D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 219.

EDWARD P. ALSBURY.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2152.]

The Committee on War Claims, to whom was referred the bill (H. R. 2152) for the relief of Edward P. Alsbury, sole surviving heir of Harriette R. Alsbury, deceased, submit the following report:

This claim was presented to the Fifty-first Congress, and a report was made in regard to it by the Committee on War Claims. As the examination by your committee has led them substantially to the same results with those arrived at by the committee of the Fifty-first Congress, they do not think it necessary to recapitulate the facts, but refer to that report, and therewith annex a copy for information.

Your committee recommend that the bill referred to them do pass.

[House Report No. 1169, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2856) for the relief of Edward P. Alsbury, sole surviving heir of Harriette R. Alsbury, deceased, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 4083, Fiftieth Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 11850) for the relief of Edward P. Alsbury, sole surviving heir of Harriette R. Alsbury, deceased, beg leave to report:

That they have duly considered the same, and find that in the month of July, A. D. 1865, Gen. Wesley Merritt, of the United States Army, was in command of the troops of the United States then occupying western Texas, with his headquarters at the city of San Antonio, and that Gen. Gibbs was commanding a brigade of cavalry of the United States Army, and was encamped a short distance outside of the city of San Antonio, on and near the property of said Harriette R. Alsbury, and that while there encamped the soldiers under the command of the said Gen. Gibbs did tear down and use in building chimneys, ovens, and camps, houses and other improvements belonging to Harriette R. Alsbury of the reasonable value of $6,000, and these facts are established by ample testimony.

It is further shown that Harriette R. Alsbury, the owner of said property, was a native of Pittsfield, Mass., and was a loyal citizen of the United States, and that since the destruction of her property she has died, leaving Edward P. Alsbury her sole surviving child and heir.

The committee are of the opinion that this is a just claim against the United States, and recommend that the bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 220.

EXAMINATION AND SETTLEMENT OF ACCOUNTS OF CERTAIN STATES.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COBB, of Missouri, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1824.]

The Committee on War Claims, to whom was referred the bill (H. R. 1824,) directing the Secretary of the Treasury to examine and settle the accounts of certain States and the City of Baltimore, etc., submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 1706, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (S. 193) directing the Secretary of the Treasury to reëxamine and resettle the accounts of certain States and the city of Baltimore, growing out of moneys expended by said States and the city of Baltimore for military purposes during the war of 1812, report as follows:

Your committee adopt the report, hereto annexed, from the Committee on Claims of the Senate of the present Congress, and report back the bill and recommend its passage.

[Senate Report No. 456, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 193) directing the Secretary of the Treasury to examine and settle the accounts of certain States and the city of Baltimore, growing out of moneys expended by said States and the city of Baltimore for military purposes during the war of 1812, have had the same under consideration and respectfully report:

The committee adopts its report submitted on the subject at the last Congress, so far as applicable to the bill now before it, as follows:

This bill outhorizes and instructs the proper accounting officers of the Treasury to examine the accounts between the United States and the States of New York, Pennsylvania, Delaware, Virginia, and South Carolina, and between the United States and the city of Baltimore, growing out of moneys expended by such States and by said city for military purposes in the war of 1812 with Great Britain, applying upon such examination, in the computation of interest and settlement, the provisions and principles of the twelfth section of the act of March 3, 1857, entitled "An act making appropriations for certain civil expenses of the Government for the year ending June 30, 1858."

The main facts are susceptible of brief statement. During the war of 1812–'14 the States of Massachusetts, New York, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, and the city of Baltimore expended certain moneys for military pur-

poses. Whether wise or unwisely, after many years, the United States treated the sums thus expended as advanced to or spent for the benefit of the National Government, and therefore a debt payable with interest, and accordingly made refund, with interest. The rule by which the interest was calculated was to compute interest on the sum advanced by the State from the date of the advance to the time of the refund by the United States, deduct the sum refunded from the sum advanced, and then compute interest on the remainder, and so on until the final payment of the principal. In other words, the payments were applied, first, to the discharge of the principal, and, the principal being extinguished, then to the payment of accumulated interest. Against this mode of computing interest the States formally protested (Senate Document, second session, Twenty-second Congress, 1832–'33), alleging that, in effect, it was a refusal upon the part of the United States to refund the whole amount borrowed.

By act of March 3, 1857, Congress directed a reëxamination and readjustment of the account of Maryland, and declared that in the calculation of interest the following rules should be observed, to wit:

"Interest shall be calculated up to the time of any payment made. To this interest the payment shall be first applied, and, if it exceeds the interest due, the balance shall be applied to diminish the principal; if the payment falls short of the interest, the balance of interest shall not be added to the principal so as to produce interest. 2. Interest shall be allowed on such sums only on which the State either paid interest or lost interest by the transfer of an interest-bearing fund.

By the readjustment made with Maryland under this act she received an additional sum of $275,770.23.

On the 8th day of July, 1870, Congress passed an act directing that the accounts between the United States and Massachusetts and Maine be reopened and readjusted upon the same principle that controlled the readjustment with Maryland, and under this legislation there was paid to Massachusetts, for herself and Maine, $678,362.42.

Congress, by act of June 12, 1858 (11 Statutes at Large, p. 326), enacted as follows:

"That the Secretary of the Treasury be instructed to report to Congress at its next regular session all applications made by State authority of the States and cities for the reopening and reëxamination of the settlements heretofore made with such States and cities, and upon the principle of readjustment upon which said claims are based, and the amounts thereof; and the Secretary of the Treasury is further instructed to report to Congress at its next regular session the gross amount that will be required to pay such claims to the States and cities of the United States."

In obedience to the mandate of this act, the Secretary of the Treasury reported at the next session of Congress (see Ex. Docs., second session, Thirty-fifth Congress, Vol. 5) that claims had been made, computing interest down to date, amounting to $1,588,521.69, as follows: South Carolina, $201,230.90; Virginia, $1,076,683.35; Delaware, $18,540.97; New York, $48,896.21; Pennsylvania, $218,507.71; city of Baltimore, $53,662.55. At the same time he reported the following amounts due as principal to said States and to said city; South Carolina, $78,996.41; Virginia, $734,069.60; Delaware, $6,341.99; New York, $27,961.81; Pennsylvania, $71,411.19; the city of Baltimore, $8,027.55.

It is admitted that the amount stated in the report as principal due Virginia is an egregious error, as the amount claimed by the State to be approximately correct is $339,212.

The main proposition of the bill is to reopen the accounts with these States and the city of Baltimore, and to reimburse them these advances, with interest calculated upon the principle adopted in the settlement with Maryland, Alabama, and Massachusetts.

No other States have unsettled accounts with the Government of the United States as the committee is advised, for advances or expenditures during the war of 1812.

Your committee are unable to discover any reason, resting in law or justice, why the States mentioned in this bill, and the city of Baltimore, should not be treated precisely as Maryland and Massachusetts were treated. The expenditures were made at the same time, for the same patriotic purpose, and the relations of the States to each other under the Constitution requires that as to reimbursement of principal and interest they should be treated alike.

The committee understand it to have been the policy of Congress not to allow interest to a State for advances made out of its treasury, or out of funds raised by taxation. The only principle upon which interest seems to have been allowed to the States was by way of *reimbursing* the State where it borrowed the moneys advanced *and paid interest thereon*, or where it *lost interest* through raising the funds advanced or expended *by the sale of interest-bearing securities owned by the State*. Upon this principle interest should be paid to those States only during the time that they actually paid interest or lost interest.

The committee reports back the bill, with the recommendation that the same do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 221.

LEWIS LANE.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3204.]

The Committee on Pensions, to whom was referred the bill (H. R. 3204) granting a pension to Lewis Lane, have considered the same and report:

The claimant was enrolled June 2, 1836, as second sergeant of Capt. Roe's Company, First Regiment Georgia Drafted Militia, Indian war, and was mustered out with the company July 17, 1836, at Columbus, Ga. This service is reported by the War Department.

In his petition for the passage of the bill for his relief the claimant states that he is 80 years old, without property or means of support, except 40 acres of poor upland, and that he is now in such a feeble condition physically as to be unable to do any manual labor.

The claimant's statements are fully corroborated under oath by James T. Beavers and James H. Jones, citizens of Hempstead County, Ark.

There are many precedents for the proposed legislation, and your committee, believing this case to be an exceptionally meritorious one, respectfully return the bill recommending its passage.

Amend by adding the initial "L" to the beneficiary's name so that it will read "Lewis L. Lane."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 222.

SAMUEL J. BOLINGS.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1093.]

The Committee on Pensions, to whom was referred the bill (H. R. 1093) increasing the pension of Samuel J. Bolings, have considered the same, and respectfully report as follows:

The claimant was a private in Company D, Second Indiana Volunteers, and served from June 20, 1846, to September 9, 1846, in the war with Mexico. He is now receiving the pension of $8 per month, provided by the act of Congress, approved January 29, 1887, for the survivors of the war with Mexico.

In his petition for an increase of his pension Mr. Bolings states that he is 69 years old, without property or other means of support, and entirely dependent upon his small pension for the maintenance of himself and his aged and crippled wife. He further states that he is entirely helpless from age and an affection of the limbs, causing distortion of the same.

Dr. C. O. Moore, of Louisville, Ky., testifies that the claimant is physically unable to do a day's work by reason of chronic articular rheumatism, and that he (the claimant) owns no property.

The claimant's residence is 1121 Campbell street, Louisville, Ky.

Your committee, upon due consideration of the facts and in the light of precedents established in similar cases, respectfully return the bill recommending its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 223.

WILLIAM A. BIRCH.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4043.]

The Committee on Pensions, to whom was referred the bill (H. R. 4043) granting an increase of pension to William A. Birch, have considered the same and respectfully report as follows:

The claimant was a private in Company F, Sixteenth U. S. Infantry, and served from April 5, 1847, to August 5, 1848, in the war with Mexico, and he is now in receipt of a pension at $8 per month on account of said service.

In his petition for an increase of his pension the claimant states that by reason of failing eyesight, rheumatism, and wounds received since the Mexican war (in 1852) he can no longer maintain himself by manual labor.

R. B. Gilbert, late acting assistant surgeon U. S. Army, testifies that he finds upon an examination of the claimant that he is so disabled by catarrh, deafness, injury of left leg, injury of left arm and hand, and general debility, the result of pneumonia and advancing age, as to be unable to labor. The claimant is now 65 years old.

Frederick Barthel and Louis Swetger, citizens of Louisville, Ky., also testify to the claimant's disabled condition, and also that he and his family are dependent upon his small pension for support.

Walter Evans, E. J. Polk, A. S. Willis, and fifteen other prominent citizens of Louisville, Ky., join in a petition for the passage of the bill, and vouch for the worthiness of the claimant and the truthfulness of his statements.

Your committee believing the bill to be meritorious respectfully return the same, recommending its passage.

Amend by fixing the rate to be allowed at $20 per month.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 224.

NANCY E. RENFRO.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Missouri, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3202.]

The Committee on Pensions, to whom was referred the bill (H. R. 3202) granting a pension to Nancy E. Renfro, have considered the same and report as follows:

The claimant's late husband, William P. Renfro, deceased, was a private in Capt. John W. Otey's company of Alabama Volunteers, and served from May 26, 1838, to July 16, 1838, in the Creek Indian war. Carroll Renfro and John W. Moon, citizens of Ouachita County, Ark., testify to the identity of the claimant as the widow of the soldier, and that she is about 70 years of age, with no property or income, and entirely dependent upon her own efforts for a livelihood.

There are many precedents for the allowance of the relief prayed for, and your committee, believing the bill to be a meritorious one, respectfully return the same, recommending its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 225.

JOHN S. NEET, JR.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 5.]

The Committee on War Claims, to whom was referred the bill (S. 5) for the relief of John S. Neet, jr., submit the following report:

The facts of this claim are fully set forth in a report made by the Committee on Military Affairs of the Senate of the present Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[Senate Report No. 26, Fifty-second Congress, first session.]

The Committee on Military Affairs, to which was referred the bill (S. 5) for the relief of John S. Neet, jr., have duly considered the same and submit the following report:

This bill directs the Secretary of the Treasury to pay to John S. Neet, jr., late a private in Company C, Third Regiment Missouri State Militia Cavalry, afterwards Company L, Sixth Missouri State Militia Cavalry, the sum of $100, in full payment of the sum allowed him in October, 1878, by the Third Auditor of the Treasury on his horse claim, No. 16827.

A precisely similar bill (S. 2262) was presented in the Fifty-first Congress and favorably reported by this committee and passed by the Senate, but no final or adverse action was had in the House.

Senate Report No. 238, Fifty-first Congress, first session, contains a full statement of all the facts and copies of letters from War Department and Treasury Department, giving his military record, summary of court-martial proceedings, action of accounting officers of Treasury, and extracts from United States Supreme Court decisions in similar cases, and to which reference is made.

Summarily stated, the claimant was tried by a general court-martial for desertion, was found guilty, and sentenced to be dishonorably discharged the service of the United States, the finding and sentence approved, and the sentence mitigated to three months' confinement at hard labor and forfeiture of three months' pay; and the sentence as mitigated was duly executed, and the soldier was thereafter honorably discharged from the service.

Claimant was duly allowed, on September 4, 1869, a bounty of $200, and was duly paid the same on November 20, 1869.

On October 10, 1874, claimant presented to the Third Auditor horse claim No. 16827, and was allowed, in October, 1878, $100; and instead of being paid that sum the same was carried to the claimant's credit by the Second Auditor on the $200 bounty previously paid him, on the ground that the bounty had been improperly paid him, on account of the sentence of the court-martial, and that he was still indebted to the United States in the sum of $100, balance of bounty so paid.

The claimant suffered the penalty of the sentence of the court-martial, and after the lapse of many years the Second Auditor proposes to impose the additional sen-

tence upon him, and does actually, to the extent of his power, in withholding from him the sum of $100 as allowed him by the Third Auditor for the horse.

One Kelly, lately a soldier in the United States Army, claimed an unpaid balance of bounty, which was refused him on the ground that it had been forfeited by desertion, and the said Kelly sued the United States in the Court of Claims.

"The case as found by the court was that the petitioner, Kelly, had deserted and was restored to duty by order of the department commander without trial, on condition that he make good the time lost, about two months; that he complied with the condition, and was honorably discharged at the expiration of his term of service."

The Court of Claims decided he was entitled to the bounty, and the United States appealed to the Supreme Court of the United Seates. Chief Justice Chase delivered the opinion in these words:

"We do not think that under the circumstances of the present case the bounty was forfeited. The able lawyer who fills at present the post of Judge-Advocate-General, in a case similar to the present, held, 'That the honorable discharge of the deserter was a formal final judgment passed by the Government upon the entire military record of the soldier, and an authoritative declaration by it that he had left the service in a status of honor; that, as such, it dispensed altogether with the supposed necessity that the soldier must obtain bounty by the removal, by order, of the charge of desertion from the rolls, and amounted of itself to the removal of any charge or impediment in the way of his receiving bounty.' With this opinion we entirely concur." (Delivered at December term, 1872.)

In this case we think the claimant is clearly entitled to be paid the sum of $100, as allowed him by the Third Auditor, and therefore report the bill back to the Senate and recommend that it pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 226.

ALFRED J. WORCESTER.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 4.]

The Committee on War Claims, to whom was referred the bill (S. 4) for the relief of Alfred J. Worcester, submit the following report:

The facts of this claim are fully set forth in a report made by the Committee on Military Affairs of the Senate of the present Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[Senate Report No. 25, Fifty-second Congress, first session.]

The Committee on Military Affairs, to which was referred the bill (S. 4) for the relief of Alfred J. Worcester, have duly considered the same and submit the following report:

A bill precisely similar to this was favorably reported by this committee to the Senate and passed in the Fiftieth Congress, and favorably reported in the House, but no final or adverse action had thereon.

S. 431, Fifty-first Congress, first session, in the exact language of this bill, was favorably reported by this committee and passed by the Senate, but no final or adverse action taken in the House.

Senate Report No. 53, Fifty-first Congress, first session, made on S. 431, is a very full and long report, containing the military record of Worcester and of his company and regiment so far as related to him; and copies of all the orders of the War Department, and all the laws of Congress, regulations, and proceedings touching the rank, pay, and muster and remuster of officers of the volunteers in late war, and to which reference is made for all the facts in this case, and from which it is apparent that the War Department can not under existing laws and regulations afford him any relief.

Is his case, therefore, sufficiently just and meritorious and exceptional as to justify Congress in passing a special act for his relief? The record shows that on December 22, 1863, there was a vacancy in the office of first lieutenant of Company G, Fourteenth Illinois Volunteers, and that said Company G was from said date up to muster out, June 11, 1864, below the minimum number of men to entitle it to three officers, and was only entitled, under the laws and General Orders No. 182, June 20, 1863, to two officers, a captain and first lieutenant, and had a captain and second lieutenant. His company was clearly entitled to a first lieutenant and not to a second lieutenant, and Mr. Worcester was clearly entitled under his commission as first lieutenant, duly issued, delivered, and accepted by him on December 23, 1863, to have been mustered in as such first lieutenant. Had he been so mustered doubtless the position of second lieutenant would have been vacated.

Had the second lieutenant of said company been duly commissioned by the governor of Illinois, in whom was vested the constitutional and legal power to appoint a first lieutenant in the vacancy occurring December 22, 1863, as such first lieutenant of

said company, there would have been no question of his right to be mustered in as such first lieutenant.

The governor, having the right to select and appoint a first lieutenant, selected and commissioned Mr. Worcester, who duly accepted the commission and appointment on December 23, 1863, and entered upon and discharged the duties of such first lieutenant from that date to June 11, 1864, having the legal right to muster in but without having been actually so mustered in.

Your committee believe this case exceptional and that he is clearly entitled to the pay of the grade of first lieutenant from December 23, 1863, to June 11, 1864, less the pay he actually received during said period, but is not entitled to any pay as such first lieutenant prior to December 23, 1863.

Your committee therefore report the bill back to the Senate and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 227.

NAPOLEON B. GIDDINGS.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 3.]

The Committee on War Claims, to whom was referred the bill (S. 3) for the relief of Napoleon B. Giddings, submit the following report:

The facts of this claim are fully set forth in a report made by the Committee on Military Affairs of the Senate in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

Senate Report No. 237, Fifty-first Congress, first session.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 2492.]

The Committee on Military Affairs, to which was referred the bill (S. 2492) for the relief of Napoleon B. Giddings, have duly considered the same and submit the following report:

This bill directs the Secretary of War to cause to be investigated the circumstances of the alleged taking in January, 1847. and deposit with Lieut. A. B. Dyer, of the Ordnance Department, by order of Col. Sterling Price, commanding the forces in New Mexico, of one hundred and forty kegs of gunpowder, and to ascertain the reasonable market value of such powder, and the final disposition thereof, and if the same, or any part thereof, was never returned or delivered back to said Giddings, then to certify the amount of such value to the Secretary of the Treasury for payment.

It appears that Mr. Giddings was a citizen of the United States engaged in merchandising in Santa Fé, N. Mex., in January. 1847, and that he purchased at a cost of $1,950, of Colburn & Smith in part payment of their indebtedness to him, one hundred and forty kegs of gunpowder as shown by the following receipt, and that the same was taken out of their possession and deposited in the magazine at Santa Fé by order of Colonel Price, as shown by their receipt, to wit:

SANTA FÉ, N. MEX., *January* 21, 1847.

Received of Napoleon B. Giddings the amount in full for one hundred and forty kegs of Beitties best powder.

COLBURN & SMITH.

The above powder, belonging to N. B. Giddings, was taken out of our possession by order of Col. S. Price and deposited in the magazine at this place, without the consent of said Giddings.

COLBURN & SMITH.

The order of Colonel Price and the receipt of the powder by Lieutenant Dyer are as follows, to wit:

[Special Orders, No. 37.]

HEADQUARTERS ARMY IN NEW MEXICO,
Santa Fé, January 21, 1847.

All merchants in Santa Fé having powder and lead will immediately have the same labeled and turned over to the ordnance officer, who will furnish the requisite storage. The ammunition will be drawn out on permits signed by the commanding officer.

STERLING PRICE,
Colonel Commanding the Army in New Mexico.

I certify the above to be a true copy of Special Orders, No. 37.

R. WALKER, Adjutant.

Received, Santa Fé, January 21, 1847, on deposit in the magazine, by order of Col. S. Price, one hundred and forty kegs of powder.

A. B. DYER,
Lieutenant of Ordnance.

The claimant presented to the House a memorial asking compensation for the powder in the Thirty-fourth Congress, and the following report was then made (H. R. Report, No. 245, Thirty-fourth Congress, third session, by Mr. Sapp, from the Committee on Military Affairs, submitted March 3, 1857), to wit:

The memorialist was a merchant at Santa Fé, N. Mex. On the 21st of January, 1847, by an order issued by Col. Sterling Price, commanding the army of occupation in New Mexico, he was obliged to deliver one hundred and forty kegs of powder, belonging to him, to Capt. A. B. Dyche, of the army. The order was a general one, extending to all powder belonging to residents of the Territory, and was dictated by motives of prudence to prevent it being obtained by a hostile people. The testimony of Captain Dyche is conclusive on the point that the powder of the memorialist was received by him as lieutenant of ordnance and deposited in the magazine. The memorialist now claims from the Government the value of the said powder, which, he says, he has never since received. The powder was not taken for the use of the Government, but merely on deposit until such time as it would be safe to permit it to be vended as an article of merchandise to other than the Army of the United States. Unless the memorialist could show that the powder is not still on deposit awaiting his order, or that it has been used by the United States, or that he has ever since demanded and failed to receive the same, he has no claim upon the Government for compensation therefor. In the absence of any proof upon these points the committee, without intending to prejudice the claim, ask at this time to be discharged from the further consideration of the memorial.

A bill for the relief of the claimant was presented to the House in the Forty-first Congress, and the following report (H. R. No. 18), Forty-first Congress, second session, was made on January 28, 1870, by Mr. Asper, from the Committee on Military Affairs, to accompany H. R. 1009, to wit:

It appears, in 1847, the claimant was a merchant at Santa Fé, N. Mex.; that Col. Sterling Price was in command of the army of occupation there, and as such issued an order, dated at the headquarters of the army of New Mexico, January 21, 1847, directing all merchants of Santa Fé, having powder and lead, to label the same and turn the same over to the ordnance officer, who was directed to store the same; and such ammunition could only afterwards be drawn out on a permit signed by the commanding officer; that the claimant, having one hundred and forty kegs of powder in the possession of Colburn and Smith; that the same was turned over to A. B. Dyer, ordnance officer, who gave his receipt therefor, bearing date January 21, 1847, and for one hundred and forty kegs of powder; that the said delivery was compulsory, and against the consent of the owner; and that it was in an enemy country, and in the opinion of military authorities there at the time there was a necessity for the order of Colonel Price, and for the storage of the powder in the magazine, under the control of the commandant of the place.

That afterwards, when Mr. Giddings was about to leave Santa Fé, he made demand for a permit for a redelivery of the powder, but he was refused such order, and the presumption arises that the Government has used the powder. The claimant on oath states that he demanded the powder of the commandant, Colonel Price, about the 1st of March, 1847, and was refused, and came away immediately after, and has never been notified what disposition has been made of it since. He swears the powder was the best "fff" powder, each keg containing 25 pounds, worth $1.50 per pound.
pound.

Under these circumstances, your committee believe that Mr. Giddings has a just claim against the Government for his powder. The account for same is as follows: 140 kegs powder, of 20 pounds each, 2,800 pounds, which, at $1.50 per pound, makes a sum of $4,200; but as the claimant never furnished evidence to complete his claim until recently, your committee do not believe that he should be allowed interest.

Your committee recommend the passage of the annexed bill, all of which is respectfully submitted.

Accompanying this report were sundry exhibits, letters, and affidavits *of claimant, and the receipts* and orders hereinbefore quoted, and letters *from Lieutenant Dyer* and Captain Craig, of the Ordnance Corps.

The affidavit of claimant, Giddings, is as follows, to wit:

STATE OF MISSOURI, *County of Andrew, ss:*

Be it remembered, that on this, the thirtieth day of December, A. D. 1869, personally appeared before me, Napoleon B. Giddings, of Savannah, county and State aforesaid, who being by me duly sworn, according to law, deposes and states as follows, to wit: That the one hundred and forty (140) kegs of powder taken from his possession about the first day of January, A. D. 1847, in Santa Fé, New Mexico, by Lieutenant Dyer, ordnance officer, by order of Colonel Sterling Price, commanding the post, were never returned to him; that about the first day of March, A. D. 1847, he demanded said property of Colonel Price, but that said Price positively refused to deliver it up; that in two (2) or three (3) days thereafter deponent left Santa Fé and returned to his home in Missouri, and has never returned to Santa Fé, in New Mexico, and since which time deponent has never been notified that the property would be delivered up to him, nor has he ever been notified what disposition was made of it; deponent further states that it was the best "fff". powder, each keg containing twenty-five (25) pounds, and such was retailing at that time in Santa Fé a tone dollar and fifty cents ($1.50) per pound. Deponent believes he informed honorable J. S. Phelps, who presented the claim to the House of Representatives for allowance, that it was worth twenty or twenty-five dollars a keg when taken as aforesaid.

N. B. GIDDINGS.

Subscribed to in my presence the day and date aforementioned. Witness my hand and notarial seal, in office in Savannah, Missouri.

[SEAL.] WM. C. SMITH,
Notary Public.

The final disposition of the powder is in doubt, and the only evidence in regard to the value is the affidavit of claimant.

The claimant has had sundry bills for his relief at sundry times presented in the House and some in the Senate, but the only action taken is the submission of the two reports hereinbefore copied.

Your committee have not the proper facilities for a proper investigation of all the facts in this case to enable them to ascertain the final disposition of the powder and the reasonable market value of the same at the time and place named.

The order for the seizure of the powder at the time and place and under the then surrounding conditions seems to have been dictated by prudence and military foresight, and the powder was taken and deposited in the care and keeping of the proper military officer without the consent of the claimant and as a proper military precaution, and has proved a loss to the amount of its reasonable market value to the claimant if never returned or delivered back to him. And if never returned or delivered back to him, it seems but reasonable and just that a fair compensation should be made to him.

The Secretary of War has the facilities for investigating and ascertaining the facts necessary for a proper adjudication of the claim.

Your committee therefore report the bill back to the Senate and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 228.

JOSEPH W. CARMACK.

FEBRUARY 8, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany S. 6.]

The Committee on War Claims, to whom was referred the bill (S. 6) for the relief of Joseph W. Carmack, submit the following report:

The facts of this claim are fully set forth in a report made by the Committee on Military Affairs of the Senate of the present Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[Senate Report No. 27, Fifty-second Congress, first session.]

The Committee on Military Affairs, to which was referred the bill (S. 6) for the relief of Joseph W. Carmack, have duly considered the same and submit the following report:

This bill directs the Secretary of the Treasury to pay to said Carmack the pay and allowances of a first sergeant of cavalry from May 1, 1862, to September 30, 1862, less any pay received by him during that time.

In the Fifty-first Congress S. 2412 for his relief proposed to pay him the pay and allowances of a second lieutenant of cavalry during the said period.

On that bill Senate Report No 239, Fifty-first Congress, first session, was made by this committee recommending the striking out of the words "second lieutenant" and inserting the words "first sergeant," and as so amended was passed by the Senate and favorably reported in the House, but no final or adverse action had.

Reference is made to said report for the official records and facts in this case, which have been reëxamined and found correct. The records and facts in that report clearly show that said Carmack was never duly appointed a second lieutenant by any competent authority, the only authority which could appoint him being the governor of Missouri, and he was consequently never commissioned, and no commission was ever issued to or for him. His only claim therefore to recognition as an officer is simply the order of his colonel and his performance of the duty. His record does not show that he performed the duties during the entire period named, and his own affidavit shows that he performed the duties of second lieutenant but a short time, and the balance of the time was on recruiting service, doubtless recruiting the company of which he was afterwards made first lieutenant. Under no law and no precedents of prior legislation can this claimant be paid the pay and allowances of a lieutenant. Never having been paid for the time named in the bill, he is clearly entitled to the pay and allowances of first sergeant during that period, and this is all that can be allowed him.

This bill only proposes to pay him as first sergeant of cavalry, and your committee believe he is justly and properly entitled to such pay, and therefore report the bill back to the Senate and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 229.

ADDRESSES DELIVERED ON THE PRESENTATION OF THE PORTRAITS OF SPEAKERS GROW AND RANDALL.

FEBRUARY 8, 1892.—Ordered to be printed.

Mr. RICHARDSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany Con. Res.]

The committee have considered the House resolution introduced by Mr. Powers on January 21 "to print 5,000 copies of the proceedings of the House attending the presentation to the House by the Commonwealth of Pennsylvania of the portraits of Hon. Galusha A. Grow and Hon. Samuel J. Randall," and report as a substitute therefor a concurrent resolution, which is herewith submitted, and recommend the passage of same.

The printing provided for in said resolution will cost more than $500, and therefore it can not be ordered by the House by a simple resolution.

The committee recommend that said resolution lie on the table, and as stated that the substitute therefor do pass.

The estimated cost of printing 10,000 copies, as provided in the concurrent resolution, will be about $2,900.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 230.

INVESTIGATION OF KEYSTONE, SPRING GARDEN, AND MAVERICK NATIONAL BANKS.

FEBRUARY 9, 1892.—Ordered to be printed.

Mr. MCMILLIN, from the Committee on Rules, submitted the following

REPORT:

The Committee on Rules, to whom was referred the resolution introduced by Mr. Mutchler, of Pennsylvania, authorizing the Committee on Banking and Currency to investigate the failure of the Keystone National Bank, the Spring Garden National Bank, and the Maverick National Bank of Boston, have considered the same and report it back with a recommendation for its adoption.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 231.

CHANGING THE TIME OF HOLDING COURT IN THE EASTERN DISTRICT OF TEXAS.

FEBRUARY 9, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. CULBERSON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 5176.]

The Committee on the Judiciary recommend the passage of the accompanying bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 232.

ADDITIONAL JUSTICES OF THE SUPREME COURT OF UTAH.

FEBRUARY 9, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. RAY, from the Committee on the Judiciary, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3939.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 3939) providing for two additional associate justices of the supreme court of the Territory Utah, and for other purposes, submit the following report:

Upon careful inquiry your committee fail to discover any necessity for increasing the number of justices of the supreme court of the Territory of Utah. The four justices now comprising such court appear to be able to promptly attend to all the business coming before that court. This committee is averse to the increase of officers in any department of the Government unless the public interests demand such increase.

Your committee therefore reports the bill back to the House, with the recommendation that it do not pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 233.

BETTER CONTROL OF AND TO PROMOTE THE SAFETY OF NATIONAL BANKS.

FEBRUARY 9, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. BACON, from the Committee on Banking and Currency, submitted the following

REPORT:

[To accompany H. R. 5681.]

The Committee on Banking and Currency having had under consideration the bill introduced by Mr. Harter, of Ohio, entitled a bill for the better control of and safety of national banks (H. R. 4281), respectfully report thereon as follows:

The attention of the House is called to the fact that the Comptroller of the Currency in his report for the year ending October 31, 1891, states that—

> In almost every instance [occurring in that year] an investigation of the affairs of an insolvent bank discloses the fact that the officers and directors have too freely used the funds of the association for their own purpose, either in a lawful or unlawful manner. The facility with which the active officers of a bank may borrow its funds seems to make it necessary that some added restriction should be placed upon transactions of this kind.

He adds:

> It would be unwise to forbid an association to loan or to discount for its several directors, as they are usually selected from among the leading men in the various branches of business for the reason that they possess information which is of great value in passing upon paper offered by those engaged in some line of trade with themselves.

The bill by Mr. Harter prohibits the officers and employés of the bank, except directors who are not otherwise officers or employés of the bank, to become borrowers or to become liable to the bank by reason of overdrawn account or as indorser, guarantor, surety, or otherwise.

In the opinion of your committee, and in compliance with the settled policy of legislation with regard to the national banks, it was unnecessary to make a prohibition against the loaning of the funds of the bank so broad. Your committee was led to that conclusion in view of the fact that in a large portion of the United States, and particularly in that portion of it in which it is most desirable that the national banking system should be extended, the president of the bank is, generally, not exclusively, occupied by the discharge of his duties as such president. The actual executive officer of banks in these sections is ordinarily the cashier. The president and directors are generally selected from among men actively employed in other business.

In the opinion of your committee, the result sought to be reached, to wit, the preventing of the misappropriation of the funds of the bank by the officers actually engaged in the duty of handling them, can be

accomplished by making it unlawful for them to borrow any money from the bank except after the making of the loan has been requested of and approved by the board of directors of the bank, or by the executive committee of such board, and by requiring that the Comptroller of the Currency shall be fully informed from time to time of the extent of such liabilities and of the persons to whom such loans are made.

It is believed that the mischiefs to be prevented have arisen mainly, if not entirely, in cases where the loans made to the directors, officers, and employés of the bank have been systematically concealed from the board of directors, and that there exists no case in which the majority of the board of directors have intentionally permitted any loans to or use of the moneys of the bank by its directors or officers in amounts sufficient to render the bank insolvent.

The purpose of the substitute bill is not to prevent such loans, but to prevent there being any secrecy about the making of them. No adequate protection against such secrecy in the case of a director overdrawing his account has been devised, and therefore your committee have recommended that all such overdrafts shall be prohibited.

Your committee has not deemed it proper or expedient to recommend that this information should be included in the reports required to be published.

It is desirable that the very best and most active business men should be induced to become directors of these banks. Such men are at times borrowers to an extent which they would not willingly and perhaps could not prudently make public, although they may be entirely able to liquidate their indebtednesses as they become due.

In the opinion of your committee, if it should be required that the report published in the neighborhood of the bank should contain the information as to the extent of such loans, men actively engaged in business of the prudence and character desirable for bank directors could not be induced to become members of the board.

Your committee believe that the act as reported will correct the evil complained of, and that it goes as far as it is prudent in restricting the directors in availing themselves of accommodation from the banks, and that it particularly affords to the depositors and stockholders all the protection necessary for their interests without depriving them of the services of the men in each community best qualified and most useful as directors of the bank.

Your committee therefore recommend the passage of the substitute submitted herewith, and that the original bill be laid on the table.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 234.

BRIDGE AT BURLINGTON, IOWA.

FEBRUARY 9, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. MILLS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 4631.]

The Committee on Interstate and Foreign Commerce have had under consideration House bill 4631, to amend an act entitled "An act to authorize the construction of a railroad, wagon, and foot-passenger bridge at Burlington, Iowa," approved August 6, 1888, as amended by act approved February 21, 1890, and reports that the bill now under consideration only extends the time for the commencement and completion of the bridge authorized to be built by the act of August 6, 1888.

The bill proposes to extend the time two years from the passage of this act, and the committee report the same back to the House and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 235.

OGDENSBURG, N. Y.

FEBRUARY 9, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. WISE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 610.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 610) extending the privileges of sections 1 and 7, act June 10, 1880, to the port of Ogdensburg, N. Y., submit the following report:

The purpose of this bill is to extend the provisions of the act approved June 10, 1880, in the interest of commerce, and to facilitate the importation and transportation of merchandise, and does not increase the cost of conducting official business.

The Secretary of the Treasury approves the object of this bill, and your committee unanimously recommend that it do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 236.

DETAIL OF CERTAIN ARMY OFFICERS.

FEBRUARY 9, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. OUTHWAITE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 618.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 618) authorizing the Secretary of War to detail certain officers of the Army to special duty in connection with the World's Columbian Exposition, have considered the same and report that there seems to be an immediate necessity for the assistance of such officer or officers at the grounds of the Exposition, and that there is no existing law by which officers of the Army can be detailed as contemplated by the bill.

The committee recommend that the bill be amended by adding after line 7 the following: "*Provided*, That nothing in this act shall be considered as authorizing the detail of any officer of the Army for any work as a civil engineer," and recommend that the bill, so amended, be passed.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 237.

CHELAN, OKANOGAN COUNTY, WASH.

FEBRUARY 9, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. STOUT, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 2568.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 2568) for the relief of the inhabitants of the town of Chelan, in Okanogan County, State of Washington, submit the following report:

The lands in question were required for town-site purposes under the laws of the United States, and as such were located by Charles H. Ballard, judge of probate, in trust for the inhabitants of Chelan. Pending this a treaty was made releasing the Indian title, the legislation concerning which precluded the location of any of the lands embraced in the treaty only under the homestead laws.

Inasmuch as town sites can not be located under the homestead law, and homesteads can not be located or lands selected as town sites, no title can be given to the lands without an enabling act of Congress. The committee find no adverse claims, and therefore report the bill to the House with the recommendation that it pass.

DEPARTMENT OF THE INTERIOR,
Washington, February 8, 1892.

SIR: I have the honor to inclose herewith a copy of the report to me by the Commissioner of the General Land Office, dated the 3d instant, on H. R. 2568, "For the relief of the inhabitants of the town of Chelan, in Okanogan County, State of Washington," in response to the reference of a copy of the bill to the Commissioner for report by Hon. B. G. Stout, of your committee.

Very respectfully,

JOHN W. NOBLE,
Secretary.

Hon. T. C. MCRAE,
Chairman Committee on the Public Lands, House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 3, 1892.

SIR: I have had the honor to receive from Hon. Mr. Stout, of the Committee on the Public Lands of the House of Representatives, for report thereon, House bill No. 2568, entitled "A bill for the relief of the town of Chelan, in Okanogan County, State of Washington," which reads as follows, viz:

"That the Commissioner of the General Land Office be, and he is hereby, authorized to issue a patent for the following tract of public land, to wit: The northeast

quarter of section thirteen in township twenty-seven north, range twenty-two east, in Okanogan County, Washington, upon the entry made at the North Yakima local land office for said land by Charles H. Ballard, probate judge for said county, in trust for the use and benefit of the inhabitants of the town of Chelan, in said county, under the town-site laws, being cash entry numbered one thousand and sixty-four of said North Yakima series of entries."

In reference to the subject I have to report that a letter was addressed by this office to L. H. Woodin, esq., Chelan, Wash., under date of the 12th February, 1891, which I quote as follows, to show the status of the entry which this bill proposes to have patented, viz:

"I am in receipt, by reference, of your letter of the sixteenth ultimo, addressed to Hon. John L. Wilson, relative to the legality of cash entry No. 1064, of the NE. ¼, Sec. 13, T. 27 N., R. 22 E., North Yakima land district, Washington, and in reply I have to state that said entry was made by Charles H. Ballard, probate judge, in trust for the several use and benefit of the occupants thereof as the town site of Chelan, Washington, according to their respective interests. The proof upon which this entry was allowed is complete in all respects but one, viz, the population of the town, which is alleged to be "about one hundred," a statement which, in connection with this proof, is entirely too indefinite.

"Aside from the question of defective proof, I find that the entry was improperly allowed and illegal. The land entered is within that portion of the Columbia Indian Reservation restored to the public domain by the 'act making appropriations for the current and contingent expenses of the Indian Department,' etc., approved July 4, 1884 (23 Stats., 79), and made subject to disposal 'to actual settlers under the *homestead laws only*, except such portion thereof as may properly be subject to sale under the laws relating to entry of *timber lands* and of *mineral lands*, the entry of which shall be governed by the laws now in force concerning the entry of such lands.' While it is true that section 2287, U. S. Rev. Stat., under which this entry was made, provides that 'whenever *any portion of the public lands* have been or may be settled upon and occupied as a town site,' it is lawful under certain conditions and upon proper showing to allow a town-site entry of the land thus occupied, yet that portion of said section above quoted has reference to public lands that have not been specifically made subject to entry under other laws than those relating to town sites. To construe the language of said section otherwise would be to empower a body of town settlers to defeat the express provisions of Congress itself. The land in question having been specifically made subject to entry under the *homestead*, *timber-land*, and *mineral-land* laws, a town-site entry of the same can not be allowed. Said entry, therefore, will have to be suspended, and, in the absence of any additional legislation affecting the tract covered thereby, eventually canceled. It is proper to further state that although the entry before me can not be approved at this time, nevertheless the occupancy of the land for trade and business by a sufficient population effectually reserves the same from homestead entry." (See sections 2258 and 2289, U. S. Rev. Stats.)

From an examination of the official record, it appears that there is no conflict with the entry in question and that there is no protest or contest affecting the same. If Congress is satisfied with reference to the sufficiency of the population of the town, which it appears is shown in the proof to be about "one hundred," I see no objection to the passage of said bill, the copy of which received from Mr. Stout is herewith inclosed.

Very respectfully,

THOS. H. CARTER,
Commissioner.

The SECRETARY OF THE INTERIOR.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 238.

WILLIAM F. GIBSON.

FEBRUARY 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 75.]

The Committee on War Claims, to whom was referred the bill (H. R. 5467) for the relief of William F. Gibson, report as follows:

That this is a claim for stores and supplies alleged to have been taken from the claimant by the Army of the United States during the late war. Claim stated at $2,137.

Your committee is of the opinion that the claim should be referred to the Court of Claims for a finding of facts under the provisions of the act of March 3, 1887, and report herewith a resolution and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 239.

FRANCIS A. BLISS.

FEBRUARY 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1405.]

The Committee on War Claims, to whom was referred the bill (H. R. 1405) for the relief of Francis A. Bliss, only surviving child and heir of William Bliss, deceased, submit the following report:

This measure was considered by this committee during the first session of the Fiftieth Congress, and was reported upon favorably (Report No. 692), which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 692, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 5382) to grant relief to William Bliss, have had the same under consideration and report:

That at the time of the battle of Gettysburg William Bliss, the claimant, was the owner of a farm of about 60 acres of land situate at Gettysburg, Pa., upon which there was a dwelling house, a brick barn, and other outbuildings, besides personal property in and about said buildings, the property of the claimant; that the said Bliss lived at that time upon said farm with his family, and it was his home.

That at said battle, on the 3d day of July, 1863, the general in command of the United States troops deemed it important to destroy said barn to gain some military advantage, and the same was burned by his order; that the fire from the barn burned the dwelling house and outbuildings and all the personal buildings in and about the same; and as evidence that said property was destroyed by order of the commanding general as aforesaid, a certificate, of which the following is a copy, was given to the claimant three days thereafter, as follows:

HEADQUARTERS ARMY OF THE POTOMAC,
SECOND ARMY CORPS.

I certify that Gen. Alex. Hays took possession, by assault, of a brick barn on the battle field west of cemetery near the Emmitsburg road, and burned it by order of the commanding general, July 3, 1863.

G. K. WARREN,
Brig. Gen. Vols., Chief Eng.

That your committee were presented with sworn inventories of the property destroyed, made in the month of July, 1863, soon after said destruction. That the claimant is still living, and nothing whatever has been paid him on account of his said claim. There is no evidence except the affidavit of claimant as to the value of the personal property destroyed. Your committee have no doubt about the value of the houses destroyed. The claimant represents to your committee that on account of his *extreme old age he desires to* have such amount allowed him by Congress as may *be deemed just without having his* case referred to the Court of Claims.

Your committee, after having taken such evidence into consideration as convinces them that the claimant is justly entitled to at least the sum of $2,200, recommend that the bill be amended by striking out the words "three thousand four hundred dollars," and inserting in lieu thereof the words "two thousand two hundred dollars," and when so amended recommend that the bill do pass.

WAR DEPARTMENT, QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., February 16, 1888.

SIR: Since my report to you of the 9th instant in reference to the claim of William Bliss, in which it was stated that said claim had been returned to the auditor of the State of Pennsylvania, because as it then appeared the property involved (a house and barn, stated at $3,256.08) was not taken by the U. S. Army, a paper has been submitted to me, of which the following is a copy, which shows that a *barn* was taken possession of by assault on the battle field of Gettysburg on the 3d of July, 1863, and burned by order of the commanding general of the Army of the Potomac. It is alleged that the barn so destroyed is the one referred to in Mr. Bliss's claim.

"HEADQUARTERS ARMY OF THE POTOMAC,
"*July 6, 1863.*

"I certify that Gen. Alex. Hays, Second Army Corps, took possession, by assault, of a brick barn on the battle field west of the cemetery near the Emmitsburg road, and burned it by order of the commanding general, July 3, 1863.

"G. K. WARREN,
"*Brig. Gen. Vols., Chief Engineer, A. P.*"

Very respectfully, your obedient servant,

S. B. HOLABIRD,
Quartermaster-General, U. S. Army.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 240.

ALFRED SMITH.

FEBRUARY 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1018.]

The Committee on War Claims, to whom was referred the bill (H. R. 1018) for the relief of Alfred Smith, submit the following report:

The facts of this claim are set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 1463, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 8412) for the relief of Alfred Smith, report as follows:

This claim is for one mule taken from the claimant at Natchez, Miss., by the Army of the United States during the late war. Claim stated at $150.

The claimant is a colored man, now 80 years old, and his mule was taken by and for the use of United States troops, in pursuance of Special Order No. 7, dated July 18, 1864, from headquarters district of Natchez, Miss., and is as follows:

SPECIAL ORDERS, No. 7. } HEADQUARTERS, U. S. FORCES, *Natchez, Miss., July 18, 1864.*

[Extract.]

All private horses and equipments within the district of Natchez are hereby ordered to be seized for public use. Maj. C. D. Townsend, Fourth Illinois Cavalry, is charged with the execution of these orders, and such detail as he may require will be made for the purpose; a memorandum receipt shall be given to the owner or claimant of property so taken. A board of officers will be appointed to examine the property so seized, and report upon the fitness of the same for public use. They will also report what property, in their judgment, by reason of unfitness or other circumstances, should be returned to the owner or claimant thereof, and submit the same for the order of the general commanding. All property found suitable for public service will be delivered to the department quartermaster, who will hold the same subject to requisition as other property in his hands.

By command of Brig. Gen. M. Brayman.

J. H. ODLIN,
Assistant Adjutant-General.

A true copy.
C. B. SMITH,
Acting Assistant Adjutant-General.

Your committee is satisfied that the mule was taken as charged for, and that claimant was a loyal citizen, and report back the bill and recommend its passage,

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 241.

EMMA C. LOVELACE AND STEPHEN D. CLARK.

FEBRUARY 9, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 775.]

The Committee on War Claims, to whom was referred the bill (H. R. 775) for the relief of Emma C. Lovelace and Stephen D. Clark, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 1433, Fifty-first Congress, first session.]

Your committee, to whom was submitted the bill (H. R. 6985) for the relief of Emma C. Lovelace and Stephen D. Clark, have carefully considered said bill and report as follows:

The allegations of the bill are that in September, 1864, certain live stock belonging to the claimants, valued at $9,750, was taken by the forces of the United States, for the use of the Army, from their plantation in Catahoula Parish, La., and that at the time of said taking they were minors and orphans. The prayer of the bill is that the case be referred to the Court of Claims for adjudication.

We find that the allegations of the bill are amply supported by the affidavits filed. The two claimants are step brother and sister, and were minors and orphans at the date of the seizure. They took no part in the rebellion, and rendered no aid and comfort to it.

We accordingly recommend that the bill do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 242.

MOIETY CLAIMS OF OFFICERS AND CREWS OF THE NAVY.

FEBRUARY 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2692.]

The Committee on War Claims, to whom was referred the bill (H. R. 2692) to provide for the settlement of claims of officers and crews of the Navy to certain moieties, and conferring jurisdiction on the Court of Claims to hear and determine the same, submit the following report:

This measure was considered by this committee during the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[House Report No. 1476, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred House of Representatives bill No. 5633, to provide for the settlement of claims of officers and crews of the Navy to certain moieties, and conferring jurisdiction on the Court of Claims to hear and determine the same, report as follows:

It appears that during the late war certain quantities of broken cotton bales were picked up in the sea by our blockading vessels, which had evidently been thrown overboard from some English blockade runner escaping from a Southern port, and which were uniformly sent into port to be sold for the benefit of the salvors. At first it was the practice for the United States marshal to libel this cotton, and upon the presentation of affidavits of officers as to the time, place, and circumstances attending the finding of the derelict, by the United States district attorney, the court (in the absence of counsel for the salvors as to their rights) signed decrees, declaring that the "*derelict broken cotton bales*" were of "*inferior force to the captors*" (a prerequisite under the law to such a decree), and decreed it therefore to be "*prize of war*," and directed that one moiety of the proceeds of the sale of such cotton should be paid into the United States Treasury.

Subsequently the officers, being advised of the rulings of the court, employed counsel to protect their interests, and after full argument the court afterwards decided in other cases, on the same facts and circumstances, that such cotton was not prize of war, but was simply "derelict," and that the salvors were entitled to the whole proceeds of the cotton sold, reference being made to the decision of Justice Betts, United States district court for the southern district of New York, in the cases of United States *v.* Forty Bales of Cotton, United States *v.* Thirty-four and one-half Bales of Cotton, United States *v.* One hundred and fifty Sacks and Fifteen Bundles Picked Out by the Gunboats Gettysburg, Quaker City, and Niphon.

In consequence of these decisions the accounting officer of the Treasury distributed the whole proceeds to the salvors, as directed by the court, whereas prior thereto only one-half was paid to them and the other half covered into the Treasury. The officers who were affected by the first decision of the court being at sea on blockading duty, and unable to leave until it was too late to have their interests protected by appeal to the proper appellate tribunal, presented their claims for the other moiety

to the accounting officer of the Treasury, and in the leading test cases (that of the officers and crew of the United States steamer *Vicksburg*) Hon. Second Comptroller Brodhead decided as follows:

"Where seventy-eight bales of cotton were picked up at sea by the United States steamer *Vicksburg*, and the court (in Boston) decreed that one-half of the proceeds of the cotton should go to the salvors and the other half be paid into the United States Treasury, and subsequently one of the salvors applied for his proportion of the moiety paid into the Treasury, on the ground that the cotton was 'derelict' and belonged wholly to the salvors: *Held*, that under section 11 of the act of June 30, 1864, (13 Stat. L., 10) relative to the distribution of ransom money, salvage, etc., it was competent for the Secretary of the Navy to correct the mistake of the court, and to direct payment to the salvors of the moiety erroneously paid into the Treasury, provided it was carried to the credit of the appropriation subject to draft; but that if the money was covered in as 'miscellaneous receipts,' an act of Congress would be requisite to authorize the payment to the salvors." (April 29, 1870, vol. 33, p. 108, Comptroller's Decisions.)

It appears that this moiety of the proceeds of the sale of derelict cotton had been covered into the Treasury under "miscellaneous receipts," and under the above decision it could only be recovered by Congressional action, which was applied for in the Congress; and in answer to a communication from Hon. A. C. Harmer, of the House Committee on Naval Affairs, relative thereto, Hon. W. E. Chandler, Secretary of the Navy, under date of March 24, 1884, wrote as follows:

* * * "And so as to the advisability of a suitable bill granting them the relief prayed for I have the honor to state, inasmuch as the legal rights of the parties concerned have been passed upon by a court of competent jurisdiction, acting, it may be presumed, upon the facts in evidence before it, and as the case can not now be carried up on appeal for the purpose of having the action of the court below reviewed by the proper appellate court, and for the further reason that it appears that in several other cases where cotton was picked up at sea under like circumstances it was held in the southern district of New York that such cotton was *derelict and not prize*, and decrees awarding the entire proceeds to the finders were entered accordingly, the Department respectfully suggests, for the consideration of the Committee on Naval Affairs, the propriety of such legislation by Congress as will enable the court of Claims to take cognizance of the claim in question.

Very respectfully,

WM. E. CHANDLER,
Secretary of the Navy.

Your committee, in view of the foregoing statement of facts, report back the bill and recommend its passage with the following amendment:

In line 4, after the word "Navy," insert the following words: "or their legal representatives."

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 243.

ESTATE OF FRANK H. NICHOLS, DECEASED.

FEBRUARY 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2556.]

The Committee on War Claims, to whom was referred the bill (H. R. 2556) for the relief of estate of Frank H. Nichols, deceased, submit the following report:

The Committee on War Claims of the Forty-ninth Congress, to whom was referred the above-mentioned claim, not being fully and clearly advised of all the facts in said claim, referred the same to the Court of Claims for a finding of facts, under the provisions of the act of March 3, 1883, known as the Bowman act.

The claim has been returned to said committee by the court with findings of fact.

Your committee recommend that said findings of the Court of Claims be carried out by the passage of the bill, which is in harmony with the conclusions reached by the court, and ask that said findings be printed as a part of this report.

[House Mis. Doc. No. 34, Fifty-second Congress, first session.]

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 19, 1891.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. CHARLES F. CRISP,
Speaker of the House of Representatives.

[Court of Claims. Congressional case No. 744. Minerva J. Nichols, executrix; Frank D. Nichols, executor, of the estate of Frank H. Nichols, deceased, *vs.* The United States.]

At a Court of Claims held in the city of Washington on the 9th day of November, A. D. 1891, the court filed the following statement of case and findings of fact, to wit:

STATEMENT OF CASE.

The claim in the above-entitled case, for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, was transmitted to the court by the Committee on War Claims of the House of Representatives the 22d day of April, 1889.

T. W. Tallmadge, esq., appeared for claimant, and the Attorney-General, by Henry M. Foot, esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court, the 4th day of November, 1889, found that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war.

The case was brought to a hearing on its merits on the 2d day of November, 1891. The claimants in their petition make the following allegations:

That certain stores and supplies were taken July 15, 1864, at Cummings, Ga., for the use of the United States Army, by C. B. Sidell, colonel Third Regiment Ohio Cavalry Volunteers, which was the property of Frank H. Nichols, now deceased, and represented by claimants, viz, 2,266 pounds tobacco, $2,266; 1 mule, $200; 1 gray mare, $150; 400 pounds bacon, $60; 30 pounds honey, $6; 30 pounds butter, $7.50; 40 pounds lard, $8; 1 man's saddle, $20; 2 bridles, $5; 100 tin buckets, pots, pans, and cups, $97.10, amounting to $2,819.60.

The court upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following—

FINDINGS OF FACT.

Frank H. Nichols, since deceased, resided during the late war at Cummings, Ga.; there was taken from him July 15, 1864, by Capt. Thomas Numan, acting under the orders of C. B. Sidell, colonel Third Regiment Ohio Cavalry, two wagonloads of manufactured tobacco, the property of said Nichols; this tobacco was reasonably worth at that time and place the sum of $2,000; the tobacco was hauled to the camp at Roswell and there distributed to the commands and issued to the troops.

There were taken from said Nichols at same time and place by the same troops, and appropriated to military use, stores and supplies reasonably worth the sum of $255.

BY THE COURT.

Filed November 9, 1891.
A true copy.
Test, this 19th day of December, A. D. 1891.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 244.

BENJAMIN F. ROGERS.

FEBRUARY 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3505.]

The Committee on War Claims, to whom was referred the bill (H. R. 3505) for the relief of Benjamin F. Rogers, submit the following report:

The Committee on War Claims of the Forty-ninth Congress, to whom was referred the above-mentioned claim, not being fully and clearly advised of all the facts in said claim, referred the same to the Court of Claims for a finding of facts, under the provisions of the act of March 3, 1883, commonly known as the Bowman act.

The claim has been returned to said committee by the court with findings of fact.

Your committee recommend that said findings of the Court of Claims be carried out by the passage of the bill, which is in harmony with the conclusions reached by the court, and ask that said findings be printed as a part of this report.

[House Mis. Doc. No. 217, Fifty-first Congress, first session.]

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 13, 1890.

SIR: Pursuant to the order of court I transmit herewith a certified copy of the findings filed by the Court of Claims in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

Hon. THOS. B. REED,
Speaker of the House of Representatives.

This case, being a claim for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, the court, on a preliminary inquiry, finds that the claimant, being the person alleged to have furnished such supplies or stores, or from whom the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

Filed January 6, 1890.

[Court of Claims. Congressional case No. 1024. Benj. P. Rogers *vs.* The United States.]

At a Court of Claims held in the city of Washington on the 12th day of June, A. D. 1890, the court filed the following statement of case and findings of fact, to wit:

STATEMENT OF CASE.

The claim in the above-entitled case for supplies, or stores, alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, was transmitted to the court by the Committee on War Claims of the House of Representatives on the 27th day of May, 1886.

Benj. P. Tallmadge, esq., appeared for claimant, and the Attorney-General, by Henry M. Foote, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court, on the 6th day of January, 1890, found that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war.

The case was brought to a hearing on its merits on the 11th day of June, 1890. The claimant in his petition makes the following allegations:

That he is a citizen of the United States, residing in Salt Springs, Douglas County, State of Georgia, where he resided during the late war of the rebellion; that at different times during said period, the United States forces, by proper authority, took from your petitioner quartermasters' stores and commissary supplies of the value of $870, and appropriated the same to the use of the United States Army; said stores consisting of—

3,000 pounds of pork, worth	$300
2 mules	300
1 buggy	75
10 acres green corn	150
20 bushels of oats	15
10 cords of wood	30
Total	870

The court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT:

Of the foregoing described property there were taken from the claimant, as alleged, by the Army for their use, stores and supplies to the value of $410, and no more.

BY THE COURT.

Filed June 12, 1890.
A true copy.
Test, this 13th day of June, A. D. 1890.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 245.

WILLIAM McGARRAHAN.

FEBRUARY 9, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COWLES, from the Committee on Mines and Mining, submitted the following

REPORT:

[To accompany H. R. 1169.]

The Committee on Mines and Mining, to whom was referred House bill 1169, submit the following report:

The controversy with respect to the tract of land mentioned in this bill covers a period of more than thirty years. Although nominally carried on between William McGarrahan on the one side and the United States on the other, the real contestant of McGarrahan's title has been the New Idria Mining Company. That company got possession of the New Idria quicksilver mine about the time McGarrahan purchased the tract of land, and has held possession ever since. The main question to be decided is whether Vicente P. Gomez, under whom McGarrahan claims, had such title to the land as was protected by treaty with Mexico, commonly known as the treaty of Guadalupe Hidalgo. If he did, then the faith of the Government is pledged to its protection.

Your committee reports back the bill (H. R. 1169) with the following amendments:

Strike out in the caption the words "of claims" and insert "of private land claims established by an act of Congress approved March third, eighteen hundred and ninety-one."

Strike out in line 8, section 1, the word "claims" and insert "private land claims established by an act of Congress approved March third, eighteen hundred and ninety-one."

Strike out in line 24, section 1, the words "of claims."

Strike out in line 29, section 1, the words "of claims."

Strike out in line 31, section 1, the words "of claims."

Insert in line 2, section 2, before the word "court" the word "said."

Strike out in line 3, section 2, the words "of claims."

In line 13, section 2, insert after the word "any" the words "map or," so as to make the reading "or of any map or record of any department of the Government of the United States."

In line 1, section 3, strike out the words "of claims."

In line 7, section 3, strike out the words "of claims."

In lines 19 and 20, section 3, strike out the words "of claims."

In line 22, section 3, insert after the word "findings" the words "or said treaty and laws."

Strike out in line 30, section 3, the words "of claims."

Strike out sections 4 and 5 of said bill and insert the following in lieu thereof.

SEC. 4. That the United States shall indemnify the said William McGarrahan for such portion of said land as may have been or may hereafter be disposed of by the United States and for the reasonable use and occupation of the same. And if the court shall find that the said grant of land carried the minerals therein, and if it shall further find that while said William McGarrahan was entitled to said grant and the minerals therein, and that the minerals were extracted by other persons or corporations than the said McGarrahan and without any fault or negligence on the part of said McGarrahan, the court shall render judgment in favor of said McGarrahan for a sum of money he, in law or equity, under all the circumstances, may be entitled to, less the value of the improvements, if any, made upon said lands and the costs of mining and extraction of said minerals and valuable substances, and such judgment, if rendered, shall be a charge on the Treasury of the United States in the same manner as other judgments for money are charges on the said Treasury.

SEC. 5. Either party being aggrieved by the judgment of the court can appeal therefrom to the Supreme Court of the United States under the same rules and regulations as are now provided or may hereafter be provided for appeals from said court.

Your committee recommend the adoption of the amendments as indicated, and the passage of the bill as so amended, which authorizes and empowers the court of private land claims to hear and determine the question of title and other questions incident thereto, with right of appeal to the United States Supreme Court.

The claim first came before Congress during the first session of the Fortieth Congress, and was referred by the House of Representatives to the Committee on the Judiciary. Mr. James F. Wilson, the chairman of the committee, during the second session of that Congress, submitted a report, which seemed to give an impartial statement of the facts and of prominent proceedings in the matter, as follows:

[Report No. 33, Fortieth Congress, second session.]

Mr. WILSON, from the Committee on the Judiciary, made the following report:

The Committee on the Judiciary, to whom was referred a bill for the relief of William McGarrahan, respectfully submit the following report:

The history of this case is composed of such a multitude of circumstances, spread over a period extending from the year 1844 to the present time, that to give it in detail would be to present a report so voluminous as to defeat the very object contemplated by the House in submitting it to the committee—that of information to its members.

It has, therefore, been deemed advisable to exhibit leading and controlling facts, rather than minute and unimportant particulars.

The effort has been to give the present paper a synoptical rather than argumental character, as it is believed a plain but abbreviated narrative will be sufficient to satisfy all inquiries that the bill herewith reported should pass.

An impartial statement of the facts and of prominent proceedings is, in the judgment of the committee, all that is needed to show that Mr. McGarrahan is entitled to the relief he seeks, and to the land in question, as described in his original memorial presented to the House during the Thirty-ninth Congress.

In the year 1844, Manuel Micheltorena, the then governor of Upper California, in accordance with a Mexican custom to confer lands upon deserving officials and citizens, granted to Vicente P. Gomez a tract of land, then, it would seem, considered almost valueless, and situate in the present counties of Fresno and Monterey, State of California. The property was then, and is now, known as "Panoche Grande Rancho."

The making of this grant has been denied, and this denial constitutes the principal ground from which has sprung the prolonged and exhausting litigation in the case, extending over a period of more than thirteen years.

The proof of the existence of the grant is satisfactory. It is found mainly in the following facts:

I. The deposition of José Castro, who filled the office of political chief of California, and was also prefect and commandant-general, which states that Gomez, with whom he was well acquainted, desired him (Castro) to inform him (Gomez) of a suitable place to petition for or secure, and that he recommended the Panoche Grande.

II. The petition of Gomez to Governor Micheltorena, March 13, 1844, requesting a grant of the rancho.

III. A marginal entry made by the governor, March 14, 1844, on the petition of Gomez, that the proper secretary should cause the necessary investigations to be made and make report.

IV. A declaration of the same date, by Manuel Jimino, the secretary, that the petition of Gomez had been transmitted to the first justice of San Juan, in order that he should report what would be just in the matter.

V. The report of the justice, dated March 20, 1844, stating that the land was vacant, and that there was no reason why the same should not be granted.

VI. A map of the land, filed in pursuance of the justice's report.

VII. The affidavit of Valentine Gajiola, employed in the Presidial Company of Monterey in 1848, showing that Gomez applied to him to make a map of the rancho; exhibited to him the title papers duly executed, and that he made the map as desired.

VIII. The deposition of José Abrigo, the head of the commissary department, and resident in Monterey, proving that Gomez was a clerk in his office, and that, in 1845, he (Gomez) showed him a title to the land named, together with a map of the property; that the papers were signed by the governor and secretary, and that he was well acquainted with the signatures of these officers, having often seen them write; that the archives in which these papers were passed into the possession of the American Army July 7, 1846.

IX. The testimony of Abrigo, Dr. James L. Ord, a surgeon in the United States Army, and others, proving the destruction of the archives in Monterey, and the fact that such destruction is generally admitted.

X. The deposition of Oscar De Grandé Barque, stating that Gomez, in 1845, showed him title papers for the rancho, and proposed a sale of the land to him.

XI. The affidavit of J. Marno Bonilla, secretary of the superior tribunal of justice in Monterey, stating that Gomez in 1844, applied to him for stamped paper, to be used in procuring a title to lands; and that, in 1845, he saw memoranda of grants of land, among which was that of Panoche Grande to Gomez.

XII. The affidavit of Matias Moreno, secretary of state of Upper California, stating that, in 1846, he knew Gomez had obtained a grant for Panoche Grande, and that he saw the grant.

XIII. The affidavits of Maricio Gonzalez, José Fernandez, Gabriel de la Torre, Joaquin S. Escamilla, and others, tending to prove the existence of the grant.

XIV. The statement of E. L. Goold, esq., before the Judiciary Committee, that he believed the petition of Gomez was a genuine document, and that he based his opinion on his knowledge of the facts and circumstances connected with the case of said Gomez against the United States, which involved the validity of the grant upon which this case is based. Mr. Goold was of counsel in said case in opposition to the grant, and appeared as a witness before the committee on behalf of the opposing parties.

XV. The grant by Governor Micheltorena, in the year 1844, to Don Julian Ursua, of the tract known as the rancho "La Panoche de San Juan and Los Carrisalitos," wherein the tract is described as being bounded on the south by the mine of "Los Aguilas" and "La Panoche Grande."

XVI. Statement of Henry D. Cooke, esq., that when he was in California, in the years 1847–'48–'49, it was common report that Gomez had received a grant of a rancho near San Juan from the Mexican Government.

XVII. In 1845 the board of land commissioners, at the hearing on the evidence, as required by the laws of the United States, decided that Gomez had given satisfactory proof of the existence and loss of the grant.

1. In the treaty of Guadalupe Hidalgo, entered into between the United States and Mexico, February 2, 1848, it was provided that property of every kind belonging to Mexicans should be inviolably respected, and that the United States should pass such laws as would give effect to the different stipulations of the treaty, and always thereafter regularly enforce them. This feature was introduced to secure all landed and other interests that might in any way be affected by a change of jurisdiction over the territory embraced in the treaty. (Stats. at Large, vol. 9, pp. 229–231.)

2. The law contemplated was passed March 3, 1851 (United States Statutes at Large, vol. 9, p. 631), creating a board of land commissioners, and declaring, among other things, "that each and every person claiming lands in California, by virtue of any right or title derived from the Spanish or Mexican Government, shall present the same to the said commissioners, when sitting as a board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claim; and it shall be the duty of the commissioners, when the case is ready for hearing, to proceed promptly to examine the same upon such evidence and upon the evidence produced in behalf of the United States, and to decide upon the validity of the said claim, and within thirty days after the said decision is rendered to certify the same, with the reasons on which it is founded, to the district attorney of the United States in and for the district in which such decision shall be rendered." (Sec. 8.)

3. February 9, 1853, Gomez, in accordance with the provision of the act of March 3, 1851, presented his petition to the board of land commissioners, praying a confirmation of his claim to the Rancho Panoche Grande.

4. The board, having fully heard the evidence of the grant, decided that the claimant had given satisfactory proof of the existence and loss of the grant, but had failed entirely to offer any proof whatever going to show that he ever occupied, improved, or cultivated any part of the land, or that any one ever did for him, or that he ever saw the land; and on the ground of nonoccupancy decided the grant invalid.

5. In the case of Fremont *vs.* The United States (17 Howard, 542), decided at December term, 1854, the Supreme Court of the United States held that, in the case of Mexican land grants, omission to take possession of the land did not of itself forfeit the right or grant. Had this determination preceded the action of the board of land commissioners, the grant to Gomez would certainly have been pronounced valid, as the board decided against the grant on the ground that the grantee had not entered upon and possessed himself of the land granted.

6. The decision of the board of land commissioners made an appeal necessary, which was accordingly taken by Gomez, and June 5, 1857, the district court for the southern district of California confirmed his claim, and a decree to that effect was pronounced. But through what is claimed to have been a clerical mistake, and which the party asserts was unobserved for some months, the decree was for three leagues of land instead of four, as claimed, and as proved by the deposition of José Abrigo used before the board of land commissioners, and in the court, to have been comprised in the grant, and was unsigned by the judge.

7. Thus, as Gomez, his counsel, and all interested might well have supposed, the question of title was settled, subject, of course, to the right of appeal. The records of the district court presenting Gomez as owner of the rancho in accordance with the finding of the board of land commissioners, the decree of the said district court, and the decision of the highest court in the Fremont case, Mr. McGarrahan, December 22, 1857, bought the property from Gomez in good faith and for a valuable consideration.

8. The alleged error in the quantity of land stated in the degree of June 5, 1857, being discovered, an application was made to the court to correct it, whereupon, February 8, 1858, an amended decreé was entered *nunc pro tunc* (that is, as of June 5, 1857), covering the four leagues, and duly signed.

9. About the time Mr. McGarrahan purchased from Gomez, some persons, having prospected the land, discovered mineral deposits (a fact unknown to Mr. McGarrahan when he purchased), and, finding it had been sold by Gomez, they, as "squatters" took possession of and held it, as they still hold it, either in person or by assignees, cognizant of the facts, and without title.

10. March 15, 1858, the United States appealed from the decree of the district court, as it seems was their practice to do in all cases adjudicated against them, and on July 8, 1858, thirteen months after the final decree of confirmation, a motion was made by special counsel of the United States in the case, as it seems, without notice to the claimant, to have the decree opened.

11. Mr McGarrahan, having been advised that the appeal to the Supreme Court had been taken by the Government, without examination as to its merits, in accordance with the uniform practice, made application through counsel to Hon. Jeremiah S. Black, the then Attorney-General (a certified transcript of the case being presented to him), to have him examine the case and determine whether he would persist in the appeal.

12. After a full argument before the Attorney-General, that officer directed that the appeal should be docketed and dismissed; and on January 31, 1859, it was so entered upon the books of his office and upon the records of the Supreme Court. Whereupon, in March, 1859, the Supreme Court issued its mandate, which ordered and decreed the docketing and dismissal of the appeal entered in the Supreme Court, and commanded that "such proceedings be had in said case as, according to right and justice and the laws of the United States, ought to be had."

13. The said mandate was filed in the district court May 4, 1859, whereupon the court ordered, adjudged, and decreed that the said mandate should be carried into effect, and that the said Gomez proceed under the decree of the court as under a final decree.

The effect of this was to perfect the title to said rancho in Mr. McGarrahan, as the grantee of Mr. Gomez.

At this stage of the case the most vigilant lawyer consulted by client, and required to examine records, could have given no other opinion upon the state of the records than that a fee-simple interest in the rancho was vested in Mr. McGarrahan.

From this time the parties occupying the property, without title or rightful claim, resorted to divers expedients to defeat McGarrahan's title; accordingly the "squatters'" interest, so called, which vested in the New Idria Mining Company, appealed to controlling officers of the Government. This is shown by the following facts:

1. A consultation between Mr. E. L. Gould, counsel for the "squatters" upon the

property alluded to, with the Attorney-General and immediately thereafter that officer making a motion in the Supreme Court to recall the mandate before spoken of on the ground of fraud and want of jurisdiction.

2. The alleged fraud was declared to consist in the fact that a conveyance of an undivided half interest in the property had been made by Gomez to Pacificus Ord, then representing the United States as district attorney, and that he had consented to the propriety of the original decree of June 5, 1857.

3. It is shown that Mr. Ord, after his appointment to the office he held, not only revealed to the Government the fact that he was interested in the claim, but requested the Government to employ other counsel to attend to its interests.

4. This the Government did not do; the consequence of which was, that Mr. Ord, at the time of the original decree, having no evidence militating against the validity of the grant, acquiesced in its confirmation; and, so far as this committee can discover, the representation then made by Mr. Ord was in accordance with facts.

5. At this point in the proceedings, it appeared that some influence, unknown to the committee, had caused the file marks and indorsements on the final order of the district court, made in obedience to the mandate of the Supreme Court, to be erased from the record, as well as the filing of the mandate itself. This seems to have been done on the 18th of January, 1860, more than eight months after the order had been filed. It also appears that certain entries in the books of the Attorney-General's Office respecting the original appeal in this case, and the action of the Government in other appeals, embraced in the same order were not known to the court or to McGarrahan's counsel in time for them to avail themselves of the benefits thereof, on the hearing of the case in the Supreme Court, on motion by the Attorney-General to revoke the mandate. It will be remembered that it was upon the conclusive evidence of his order that the Supreme Court had directed the proper entry to be made upon their record, and that their mandate was issued.

6. This failure to disclose the facts to the court by the Government undoubtedly had much to do in securing the order of the Supreme Court revoking their mandate of 1859, and which order was strangely withheld until June, 1862, when it was filed by the present claimant for the purpose of again lodging jurisdiction of the case in the court below.

7. But in the meantime (March 21, 1861) the district court annulled its original decree. This extraordinary action on the part of the court seems to have been taken without notice, either to the claimant or his known counsel, and in the absence of both.

8. As soon as this condition of things was ascertained, an application was made to the court to restore the decree, and, upon full hearing, the order, as requested, was made on the 4th of August, 1862.

9. Thus matters rested until the 25th August, 1862, when the then district attorney, contrary to express stipulations, entered into between himself and the counsel for the claimant, in their absence, and without notice, obtained an order of appeal to the Supreme Court.

10. The impropriety of this proceeding is made apparent for the reason that, in order to give the Supreme Court jurisdiction, a citation should have been first issued, signed by the judges, served on the claimant, and from return made, with proof of service.

11. The law is very clear upon this point. The acts of 1789 and 1803, which regulate appeals (the appeal not having been taken in open court at the June term in 1857, when the original decree was pronounced, nor at the December term in 1857, when the decree was entered *nunc pro tunc*, or, in other words, within five years, as directed by the statutes), demanded a notice to the opposite party, and the proceeding was therefore clearly wrong. The court, upon a full hearing, reached this determination, and accordingly decided, December 4, 1862, that the appeal allowed August 25, 1862, be vacated and set aside, and that an appeal on behalf of the United States to the Supreme Court be denied.

Here, for the second time, the record evidenced a perfect title in the claimant.

It having been twice judicially determined by the action of the courts that Mr. McGarrahan was the legal owner of the Rancho Panoche Grande, the aggressors upon his rights resorted to a new line of action.

1. As seen, after nine years of litigation, Mr. McGarrahan, the present claimant, succeeded in acquiring two distinct confirmations to his title. It was then, in accordance with the act of Congress of June, 1862, he applied to the United States surveyor-general of California for a survey of the said tract of land, and which officer caused the survey to be made and approved September 11, 1862. This survey was transmitted immediately thereafter to the General Land Office, and a patent to the property was demanded.

2. Here, again, he was confronted by the New Idria Mining Company, before referred to. The Secretary of the Interior at that time (Hon. Caleb B. Smith), after argument in the case, ordered the patent to issue.

Thus, again, for the third time, the title to the Panoche Grande was found to be in Mr. McGarrahan. Some unknown cause delayed the execution of this order, and the patent was not issued. This neglect or refusal was persisted in throughout the remainder of Mr. Secretary Smith's term. The matter was then brought to the notice of Mr. Usher, the new Secretary, before whom it was again argued, and by whom a patent was directed to be issued. Neither the order of Mr. Smith nor Mr. Usher was obeyed, for some reason not yet divulged or ascertained.

For the fourth time the title of Gomez and his grantee was decided to be good and available in law. A request was then made by the claimant of President Lincoln that he would make an examination of the case and determine upon its merits. This he consented to do. Printed briefs were laid before him; and, upon full consideration of all the facts and circumstances, he directed the Secretary of the Interior to cause a patent to issue to Mr. McGarrahan. And thus, for the fifth time, Mr. McGarrahan was declared to be entitled to the property or rancho, that neither the United States nor any other person had lawful claim to the same.

In accordance with this order of the President of the United States to the Secretary of the Interior, a patent was actually made out, but, for reasons not fully explained, never delivered to him for signature.

To recapitulate:

1. The proof of a legal grant from the Mexican Government to Gomez and the transfer of title to McGarrahan are clearly and indisputably shown.
2. The district court of the United States for the southern district of California confirmed the grant.
3. The Attorney-General of the United States declared the title to the lands to be in Mr. McGarrahan, and caused an entry to that effect to be made on the books of his office and in the Supreme Court.
4. Hon. Caleb B. Smith, Secretary of the Interior, after examination and consideration of the case, ordered a patent to be issued to Mr. McGarrahan.
5. Mr. Usher, the successor in office of Mr. Smith, similarly decided.
6. Mr. Lincoln, after inquiry, decided the grant to be genuine, and that a patent should be issued to Mr. McGarrahan.

From the time when the district court pronounced its decree of confirmation (June 5, 1857), and the President's action on the case (in the fall of 1863), it will be observed over six years had elapsed, and in consequence of the lapse of time an appeal could not be had according to law, unless something should appear to avoid the limitation.

In December, 1863, a paper, purporting to be a transcript of proceedings as they appeared on the records of the district court, was prepared in the Attorney-General's office in Washington, D. C., forwarded to the district attorney in California, certified by him out of his district, without comparison with the record, and merely from memory, and from which transcript were omitted material parts of the record, and returned to Washington.

Upon the transcript thus made up the case was again brought before the Supreme Court, which being discovered by the claimant, a motion was made to strike off the appeal, which was refused, although it, as it seems to the committee, was out of time, and the transcript had been made up without reference to the actual records of the district court.

Notwithstanding the Supreme Court refused to strike off the appeal taken in the manner indicated, a new transcript was obtained, 1865, from the clerk of the district court, and filed at December term, 1865, eight years and a half after the decree of the district court confirming the title was first pronounced, and more than three years after the period had elapsed within which the law allowed an appeal to be taken in the case, unless some exception takes it out of the limitation. Upon this appeal the Supreme Court, in March, 1866, decided the case against the claimant, and thus matters now stand.

The committee have bestowed a great deal of time and labor upon this case in order to arrive at its real facts and merits. The claimant and the parties resisting his claim have been heard patiently and at great length.

In presenting the conclusion at which the committee have arrived they do not wish to be understood as undertaking to review and reverse the action of the Supreme Court relative to the case. Under and by virtue of the right of petition the claimant has presented his case to Congress, and the House of Representatives directed this committee to inquire into the grounds of his complaint. This has been done. Many facts have been presented to the committee which were not placed before the court. Additional evidence has been submitted and circumstances disclosed which have induced your committee to conclude that the relief prayed for by Mr. McGarrahan ought to be extended to him; and this may very readily be done. The title to the land claimed, and which he asks that he may be allowed to purchase, is now vested in the Government of the United States, and as it is merely a question whether he shall be permitted to secure that which, in the judgment of your committee, he acquired title to by virtue of the Mexican grant aforesaid, or it shall fall into the hands of a

corporation known as the New Idria Mining Company, which has been resisting his claim for years and paying the expenses of the efforts of said company out of the proceeds of the mines, the title to which rests in the United States.

It is clear that McGarrahan purchased the property in good faith, and for a valuable consideration, when it was regarded as of but little value. His interests have been attacked and his title resisted, nominally by the United States, but really by the New Idria Mining Company. The name of the United States, their officers and money, have been used to resist this claim, and all to the end that this property, valuable as it now undoubtedly is, may pass into the hands of parties who are wholly unknown to the record of the proceedings had in the courts of the United States respecting the title to the land in question through all its years of transit from the board of land commissioners to and through the Supreme Court of the United States.

The company aforesaid placed before the committee a memorial, in which the case is stated as follows:

"The real parties who contested the grant were your memorialists, for against them only were the efforts of the owners of the 'Panoche Grande rancho' directed. For the New Idria mines, and for the fruits of the labor of those who have developed them, the owners of the 'Panoche Grande' are now seeking Congressional interference in their behalf. It may well be doubted whether the 'Panoche Grande' would ever have been heard of in the district court of the United States or in Congress but for the hope of robbing your memorialists of the fruits of their years of labor and vast expenditures of money."

This extract shows that the United States have no interest as between these parties beyond that of preserving its faith as pledged in the treaty made between this Government and that of Mexico. And as to the allegation of robbery, etc., made by said company, it may be remarked that one of its stockholders, of large interest, testified before the committee that after paying all of the expenses of said company, including every outlay, a balance would be left in its treasury on account stated.

The precedents are numerous where the Congress has afforded redress in cases of an analogous character. The following are referred to:

I. The Soscol act, 12 U. S. Stats., p. 808.
II. The Bolsa de Jomales act, 13 U. S. Stats., p. 136.
III. Ex-mission San José act, 13 U. S. Stats., p. 534.
IV. Laguna de Santos Calle act, 13 U. S. Stats., p. 372.
V. Baron de Bastrop act, 9 U. S. Stats., p. 597.

In addition to which we have the act of June 21, 1860, and the act of March 1, 1861.

In view of all the facts developed in the case, and believing that justice and equity demand that the relief prayed for by the claimant be extended to him, the committee recommend the passage of the bill herewith reported.

[Report No. 5, Fortieth Congress, first session.]

A bill for the relief of William McGarrahan.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the tract of land known as the Panoche Grande rancho, in the State of California, granted by Governor Manuel Micheltorena to Vincente P. Gomez, in the year eighteen hundred and forty-four, and by said Gomez conveyed to William McGarrahan on the twenty-second day of December, eighteen hundred and fifty-seven, surveyed by the United States surveyor-general for the State of California, and approved by him on the eleventh day of September, in the year eighteen hundred and sixty-two, and which said survey is now on file in the General Land Office, be, and the same is in all respects hereby, fully confirmed to said William McGarrahan, upon this condition, however, that the said McGarrahan shall, within twelve months after the passage of this act, pay into the Treasury of the United States the sum of one dollar and twenty-five cents per acre for the lands embraced within the said survey.

SEC. 2. *And be it further enacted,* That upon the payment of the said sum of money to the Treasurer of the United States by said McGarrahan the said Treasurer shall give a certificate therefor, and upon the presentation thereof to the Commissioner of the General Land Office a patent shall be issued to said William McGarrahan for said lands.

The bill reported by that committee was passed by the House of Representatives on the 15th day of May, 1868, after debate. (See Cong. Globe, vol. 97, p. 2479.)

It will be observed that the bill as it passed the House confirmed the grant to William McGarrahan as surveyed by the United States surveyor-general for the State of California.

The bill when it reached the Senate was referred to the Committee on Private Land Claims. The committee reported adversely to the bill, and on the 25th day of July, 1868, the last evening of the session, the bill was called up and indefinitely postponed. At the next session, to wit, on the 20th day of January, 1869, Mr. Morton called up the bill for reference, which motion prevailed by a vote of 27 yeas to 18 nays, after a discussion which consumed a portion of several days, during which the circumstances under which the bill had been indefinitely postponed were fully brought to the attention of the Senate. The bill was recommitted to the Committee on Private Land Claims. It was reported back to the Senate on the 24th day of February, 1869, two of the committee being favorable, two adverse, and one refusing to take any part in the decision. The bill was not further considered during that Congress.

The existence of what is claimed to be a record of a patent in the General Land Office to McGarrahan was brought to his attention about the 6th day of July, 1870, at which time his claim was pending before the Committee on the Judiciary of the House of Representatives of the Forty-first Congress. He notified the committee of the discovery, and the committee on the 6th day of July, 1870, through its chairman, Hon. John A. Bingham, called upon the Department of the Interior for the volume of the records containing the same. The volume was produced and the record inspected by the committee. On the 14th day of July, 1870, an authenticated copy of the record was called for by the chairman of the committee. The copy was not furnished until the 26th day of July, 1870, the record in the mean time, to wit, on the 25th day of July, 1870, having, it is claimed, been mutilated.

A majority of the Committee on the Judiciary reported adversely to the claim, but the chairman of the committee, Hon. John A. Bingham, and Hon. Charles A. Eldridge, a member of the committee, reported a joint resolution providing "that the patent should be transcribed into the records as it stood, without any mutilation or erasure, and authorizing and requiring the President to do in the premises whatever was just and equitable, without regard to any action or proceeding had subsequent to the 14th day of February, 1863, the date of the patent. This joint resolution was passed by the House on the 20th day of February, 1871. It was sent to the Senate, but was not considered.

The House of Representatives of the Forty-third Congress passed a resolution requesting the Commissioner of the General Land Office to institute proceedings against the New Idria Company, but the Commissioner refused to bring the suit, and reported his refusal to the House. (See Ex. Doc. 180, Forty-third Congress, second session.)

The "sundry civil bill" for the year ending June 30, 1876, contained a clause authorizing the Secretary of the Interior to cause an examination to be made for the purpose of ascertaining whether any person, firm, or corporation was occupying any larger portion of said tract of land than was authorized by the laws relating to mining lands, and to make report thereof to Congress. (See Ex. Doc. 11, Forty-fourth Congress, first session.)

A majority of the Committee on the Public Lands of the House of Representatives of the Forty-fifth Congress reported a bill referring the whole case to the courts for a rehearing without reference to any decisions of the courts previously rendered, but the bill was not acted upon by the House.

A majority of the Committee on Private Land Claims of the House of Representatives of the Forty-sixth Congress reported adversely to a similar bill reported by the Committee on the Public Lands of the Forty-fifth Congress, but suggested that if the decisions of the Supreme Court, adverse to the validity of this claim, are erroneous, and McGarrahan's title was originally valid, that "his only remedy" was by "direct act of Congress confirming his title to so much of said land as had not been legally disposed of by the Government, and the payment to him in money or other land of an amount equal in value to so much of the same as the Government had parted title with to innocent purchasers." (See House Report No. 29, third session, Forty-sixth Congress.) A bill was thereupon introduced in the House in accordance with this suggestion of the committee providing for the confirmation of the grant and the payment to McGarrahan of an amount in money equal to the value of so much of said grant as had been disposed of. The committee on the 17th day of February, 1881, reported the bill favorably, with an amendment providing that compensation should be made in other land instead of money for so much of said land as the Government had parted title with, but this bill was never considered by the House. (See House Report No. 273, Forth-sixth Congress, third session.)

In the Forty-seventh Congress a similar bill was reported favorably by Mr. Muldrow from the Committee on Private Land Claims of the House of Representatives, but it was never considered by the House.

In the Forty-eighth Congress a similar bill was considered by the Judiciary Committee of the House of Representatives and reported adversely, several members of the committee submitting views in favor of the passage of the bill, but no action was taken by the House.

In the Forty-ninth, Fiftieth, and Fifty-first Congresses a similar bill to the one now reported was considered by the Committee on Mines and Mining and favorably reported. The claim when first presented to Congress was carefully considered by the Land Committee of the House, and, as has been stated, that committee reported a bill confirming the title to the land in controversy to McGarrahan, and the House passed the bill.

The reasons which led the committee to the conclusions which it reached are stated in the report with great clearness and force. The House of Representatives of the Forty-first Congress passed the joint resolution before referred to, which virtually gave effect to the patent, notwithstanding the adverse decision of the Supreme Court, after a protracted debate. Your committee, in view of the action taken at different times by the two Houses of Congress and their committees, and also in view of the decisions of the Departments and the differing decisions of the courts, as above recited, have thought it best to refer the question of the validity of the grant again to the courts, to be acted on without regard to any former decision. It has likewise referred to the courts the question of indemnity to McGarrahan, in case it is decided that the grant is valid. The bill provides that all evidence taken before the land commissioners, or before a court of the circuit or district court of the United States in California, or before the committees of the two Houses of Congress, and before persons authorized by law to administer oaths, shall be competent testimony on the trial.

It appears that in January, 1881, and subsequently the United States parted with title to certain portions of the land, embracing the New Idria quicksilver mine, to the New Idria Mining Company. If there was a grant of this land to Gomez protected by the treaty of Guadaloupe Hidalgo, or a patent therefor had been signed by the President of the United States or by his private secretary to sign land patents, or that any record of such a patent having the signature of the President of the United States thereto exists, and the court so find under the provisions of the bill reported by your committee, then the question of the liability of the Government, in law or equity, to indemnify said McGarrahan for any portions of the lands disposed of by it is submitted to the court.

Your committee add hereto a letter from the Assistant Commissioner of the General Land Office, also a letter from Mr. McGarrahan and his counsel, the Hon. Eppa Hunton, all of which are made a part of this report, and attached as Exhibits A and B.

Your committee, in order that there may be a final determination of this case in accordance with justice and right, recommend the passage of House bill 1169, with amendments thereto.

EXHIBIT A.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 25, 1888.

SIR: In response to your inquiry of the 21st instant, relative to the amount of land which has been disposed of within the claimed limits of the private grant known as the "Panoche Grande," in the San Francisco, Cal., land district, I have the honor to state that upon examination of the records of this office I find that 2,673.71 acres have been disposed of within the limits of said claim, which covers land in townships 16

and 17 south, range 11 east, and townships 17 and 18 south, range 12 east, Mount Diablo meridian.

The copy of Senate bill No. 1030, handed to me by you, is herewith returned.

Very respectfully,

S. M. STOCKSLAGER,
Acting Commissioner.

Hon. H. M. TELLER,
U. S. Senate.

EXHIBIT B.

WASHINGTON, *April 16, 1888.*

DEAR SIR: Senator Voorhees, on December 31, 1887, presented a bill for the relief of William McGarrahan, which was referred to the Committee on Mines and Mining, of which you are a member.

A bill of a similar character was favorably reported by the Senate and House Committees on Mines and Mining of the Forty-ninth Congress, but was not reached on the calendar of either House, and, of course, not considered.

A majority of the Committee on Mines and Mining of the House of Representatives, through its chairman, Mr. O'Ferrall, also reported a bill for McGarrahan's relief at this present session, which is now on the calendar of the House.

The Committee on Private Land Claims of the House of Representatives, 17th February, 1881, Forty-sixth Congress, reported a bill confirming the grant to McGarrahan, *without further litigation*, and recommended that he should be indemnified in other lands, but it was never considered by the House. (See House Report No. 273, Forty-sixth Congress.)

In the Forty-seventh Congress a similiar bill was reported favorably by Mr. Muldrow, the present First Assistant Secretary of the Interior, from the Committee on Private Land Claims of the House of Representations, but it was never considered by the House.

Since the reference of this bill to your committee there has been incorporated therein three amendments, thereby removing objections, as it is believed, of some of the members of the committee and those opposing its passage in its original form.

Senator Teller, on behalf of the committee and for its information, as I understand, made a personal application to the Hon. S. M. Stockslager, Acting Commissioner of the Land Office, to ascertain "the amount of land which has been disposed of within the limits of the private grant known as the Panoche Grand, Cal."

The Acting Commissioner, of date January 25, 1888, in reply, says: "That upon examination of the records of this office I find that 2,673.71 acres have been disposed of within the limits of said claim." (See letter addressed to Senator Teller by the Acting Commissioner.) It thus having appeared by the letter of the Acting Commissioner that only 2,673.71 acres, embraced in the land claimed by McGarrahan, have been disposed of, it would seem that the only questions involved in the bill are his title to and his indemnity for the value of these 2,673.71 acres, and they being wholly left to the courts it is to be hoped they will meet with the approval of the committee and allow the courts to pass upon them.

I respectfully but earnestly urge that your honorable committee report their conclusion to the Senate at their earliest convenience to the end that opportunity may be had by that body to pass upon its merits during this Congress.

Very respectfully,

EPPA HUNTON,
Of Counsel.

Hon. H. M. TELLER, U. S. S.,
Senate Chamber.

P. S.—With a view of relieving the United States from further liability beyond that involved in the 2,673 acres, I respectfully suggest that the committee will be pleased to request the Commissioner of the General Land Office to instruct by letter the register and receiver of lands in the San Francisco, Cal., land district to not permit any proceedings to be had in their office in any way affecting the right, title, or claim of William McGarrahan to the lands embraced within the limits of the rancho Panoche Grande; that said Commissioner of the General Land Office be requested to inform your committee what and all steps he shall take hereunder.

Respectfully,

WM. MCGARRAHAN.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 246.

MAPS OF CONGRESSIONAL DISTRICTS IN THE CONGRESSIONAL DIRECTORY.

FEBRUARY 9, 1892.—Laid on the table and ordered to be printed.

Mr. RICHARDSON, from the Committee on Printing, submitted the following

REPORT:

The Committee on Printing have considered the House resolution, introduced by Mr. Oates, directing the committee to inquire into and report to the House by what authority the compiler of the Congressional Directory embraced in the last edition thereof the appendix from pages 149 to 406, inclusive, the additional cost thereof, and why the same should not be omitted from further editions of said Directory. The committee addressed a communication to W. H. Michael, the clerk of the Senate Committee on Printing, who, under the law, compiles the Directory, inclosing a copy of said resolution and asking a reply thereto. The reply of the compiler is herewith inserted:

UNITED STATES SENATE,
Washington, January 26, 1892.

MY DEAR SIR: I have the honor to acknowledge the receipt of your communication of the 25th instant, inclosing House resolution directing your committee to inquire into and inform the House "by what authority the compiler of the Congressional Directory embraced in the last edition thereof the appendix from pages 149 to 406, inclusive."

Section 77 of the Revised Statutes of 1878 reads: "A Congressional Directory shall be compiled at each session of Congress, under the direction of the Joint Committee on Public Printing."

All the work I have done as compiler of the Directory has been performed under the direction of the Joint Committee on Printing.

Very truly, yours,

W. H. MICHAEL,
Clerk of Printing Records.

Hon. JAMES D. RICHARDSON,
Chairman Committee on Printing, House of Representatives.

It will thus be seen that the compiler claims that he did this work by direction of the Joint Committee on Printing. This, of course, means the Joint Committee in the Fifty-first Congress. The writer of this report was a member of that committee, the minority member. He was not present when any authority was given the compiler to publish said appendix, and never heard of it until he saw it in the Directory.

The additional cost for inserting said appendix was $676.15.

The second edition of the Directory of this Congress has been published, and it will be seen by reference thereto that said appendix is omitted therefrom.

The committee having thus answered the inquiries proposed in said resolution, can not see that there is any necessity to pass same, and recommend that it lie on the table.

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free coinage proposed be drawn out in payment for silver dollars or coin notes. No citizen of the United States is compelled by law to swap his gold dollar for a silver dollar, nor is there any law in existence or proposed that compels an exchange of silver for gold without paying any premium that may at any time exist on gold. Again, it is said, we give the silver miner at our mints a dollar for bullion that costs only 41 cents, without hesitating a moment to reflect that the gold miner, as is often done, extracts 5 ounces a day in gold, that we coin into $100, when his day's wages is worth only $3 or $4, thus coining his product that cost but $4 into money of $100.

There are no mining statistics that can even approximate the vast outlay of labor and capital, not to say privation and deprivation, wasted absolutely in the search of the precious metals gold and silver. It is an old adage that it takes "a gold mine to work a silver mine," as illustrating the costs of such mining. Where one miner gets rich at this sort of mining, many thousands waste their labor and capital in fruitless search for the hidden treasure. There is absolutely no reliable data to estimate the cost that the mining of our precious metals has one way or another entailed. As a mining question it may be fairly said that the gold miner now has a monopoly at our mints, that equality and equal justice would give the silver miner the same privilege as the gold miner. But the mining question as a matter of fact has no place in this discussion. It is lugged in to prejudice and blind the mind as dust thrown in the eyes of the people.

When the utter inconsistencies and fallacies of all the other objections to free coinage are shown we are confronted with the ultimatum that all our gold will flee this country at once, contracting our currency to the amount of $686,000,000. The monthly statement of the Secretary of the Treasury for January 1, 1892, shows we have in the Treasury gold coin and bullion, $278,846,750. Last annual report of the Comptroller of the Currency shows gold in national banks amounting to $87,575,142; private banks and other institutions, $8,883,552; total in banks, $96,558,694; making a total in Treasury and in banks of $375,425,554.

This amount we have trustworthy record as being in this country. The remainder of the estimate of $686,000,000 is largely guesswork. Of all the objections urged against free coinage this, in the opinion of your committee, is the only one that deserves serious consideration. That the change proposed in our currency laws, involving the complete restoration of the bimetallic standard, a return to the coinage of both metals on equal terms will cause for the moment some apprehension, and probably a disposition to hoard gold, may be expected. Yet any evils that may result must, in the nature of the situation, be transitory. No important change that affects our fiscal system can be made without in some respects, in first effects at least, causing some inconvenience or friction somewhere. Yet it will not be contended that our laws relating to the currency or to the tariff or other modes of taxation are never to be altered. The ultimate good to be obtained is, and always has been, a sufficient argument for changes and amendments.

To restore silver now would not mean the radical change that was effected in our currency laws by the act demonetizing it.

It is as competent for this Congress to restore silver as it was for the Forty-second Congress to demonetize it. It is admitted everywhere that silver demonetization was a great blunder. Why should not its restoration be a great blessing.

Indeed, demonetization took place without warning and at a time

when we were looking to a resumption of coin payments and sorely needed all the specie possible. We have approached free coinage gradually. We resumed the coinage of the standard silver dollar in 1878 with the distinct purpose of putting this country on the gold and silver basis. At no time since then has there been a cessation on the part of a vast majority of our people for its complete rehabilitation. We have coined over 400 million silver dollars, we have besides over 50 millions silver bullion, and are now purchasing 4,500,000 ounces every month, or 54 million ounces annually. Our approach to free coinage has been steady and persistent. We believe silver should have been restored at once in 1878. Then, the longer it is delayed the greater the injustice done to our people.

A few timid people and a few misers might for a moment hoard gold, but the gold in this country for the most part is held by a class of our citizens who are too shrewd and alive to their own interests to drop their gold in the sea or bury it in the ground from whence it came and whence it will continue to be extracted. The holders of gold could not and would not bear the loss of so much dead capital. At least, they would do no more with gold than they are now doing—loan it out on contracts for the return of principal and interest in gold. We are now suffering all the evils alleged against free coinage by its opponents, without the realization of many of the benefits claimed by its friends. The restoration of silver as a money metal by this country would at once allay all fears of its ultimate remonetization by the nations of the world. It would give confidence in silver as a safe medium of exchange, leaving no pretext whatever for the apprehensions now indulged in. There could be no hoarding of gold.

The stocks of coined silver that would add to the world's money would, in the nature of things, cheapen gold and render it less burdensome to meet gold contracts than now. To take 600,000,000 of gold out of our circulation immediately, and before the vacuum could be supplied by free coinage, would necessarily lower prices to such extent that gold would buy more of commodities than now; consequently, gold investments here would be more remunerative than now. This fact alone would at once cause gold to be imported instead of exported; it would cause gold to be invested instead of hoarded. Gold can not be hoarded or exported at a profit till some other forms of money take its place in our circulation.

BONUSED EXPORTS.

The fact that nearly the whole of our exports of agriculture go to European or gold-using countries, to be sold in competition there with countries on the single silver basis, is cited by economic writers of this country and of the Old World to show the disadvantage of the American farmers in such competition. It is claimed, and the history of prices show, that as silver falls as compared to gold, so in about the same ratio the prices of our farm products fall. To say that silver is low, is tantamount to saying that the price of cotton, wheat, and other farm exports are depressed. The reason is plain: countries having the silver standard avoid as far as possible liquidating foreign debts in money, for the reason that silver is, as compared to gold, depreciated. To settle foreign balances therefore in silver entails a loss of the difference in exchange between the value of silver as compared to gold, this difference being the divergence between the commercial value and the coining value of silver. Hence silver-standard countries, notably India, instead of sending her money (silver) to pay foreign balances,

sends wheat and cotton and other exports, which in her currency have not lost their value at home or abroad. This system works as an indirect bonus for all such exports from silver-standard countries. Not so with the American farmer. Here silver is coined only on government account. We are thus tied to the single gold standard; consequently when gold goes up as compared to silver his wheat, cotton, and other exports fall in price. In other words, as silver falls below gold, so also our articles of export trade, especially farm products, fall in price. These facts were clearly brought out in the investigation of the British Royal Commission.

An explanation further is that the farmer, in all silver-standard countries, who sells his products for gold, in gold-using countries, gets gold. If, therefore, wheat is worth a dollar a bushel in gold in London, a bushel of wheat sold there will get a gold dollar; this gold dollar will buy silver enough now, in the London market, to coin a dollar and twenty-five cents at our ratio, and more at the ratio of India, so that the farmer in silver-standard countries gets for his wheat a dollar that will buy a sufficiency of silver to coin at his home mint into a dollar and a quarter; or, in other words, he has in reality got a dollar and a quarter a bushel for his wheat. Not so with the American farmer. He gets his dollar in gold, but he can not with that gold dollar buy silver for coinage at home for the reason free coinage is denied him, silver coinage here being limited to Government account.

The American farmer gets a dollar for a given amount of his wheat, meats, and cotton products, whereas the farmer in silver-using countries gets a dollar and a quarter for the same amount of his product. Free coinage would put silver and gold on a practical parity, thus putting the American farmer on equality with the Hindoo and other silver-using peoples. It is beyond a doubt that the free coinage of silver, by decreasing the value of gold and increasing the value of silver, and thus bringing them about to par, would add at least from 12 to 15 per cent to the value of all farm products, so that it is clearly seen that the gain of the silver miner as compared to the gain of the American farmer by the free coinage of silver is practically insignificant. This week's Wall Street Review has the following bearing upon this point:

TWO LOW-PRICED COMMODITIES.

Silver and cotton are the two important commodities selling at the lowest prices in history. Silver is all important because it is such a factor in our currency. Bullion dealers insist that foreigners have been selling silver short in this market for weeks and run no risk because the Government gives so much time to the delivery of bullion on its triweekly purchases. They could send foreign silver here to deliver to the Government on sales made to it, if the market should take a sudden upturn or it was hard to buy silver here to deliver. An amendment to the law making deliveries obligatory in three or four days is desired. Cotton figures largely in our exports and means everything to the South. It is not generally known that our exports of cotton are the largest of any staple; in fact, in 1891, despite the low prices, the value of our cotton exports was $276,658,029, against $231,492,890 of all breadstuffs and less than $160,000,000 for all animal products. In 1889 cotton exports were $266,649,345, against $129,665,377 of all breadstuffs. Any improvement in the price of silver or cotton would be reflected in the market for securities.

The Washington Post, of January 31, has also the following telegram from New York:

TUMBLE IN COTTON—EXCITEMENT OVER THE LOWEST PRICES EVER CHRONICLED IN NEW YORK.

NEW YORK, *February 1.*

There was great excitement on the cotton exchange to-day. For a year the price of this staple has been steadily declining, with only slight and unimportant reactions. To-day the March option sold at 7 cents per pound, tumbling nearly seventeen

points. The other option sold off in the same ratio, and the nominal price for February was 6.90 cents.

The prices are the lowest ever chronicled. They are due to last year's unprecedented crop and to the fact that there is still a large part of it unused and fears that this year's crop may be nearly as large. The low price of silver is also a factor in the decline, as England settles with India in silver and the lower silver goes the cheaper England can buy in India.

The very large receipts at the Southern ports was also used as a bear factor. The outlook for the bulls is gloomy.

Breadstuffs are doing somewhat better now than cotton, owing to the failure of such crops nearly everywhere except in the United States.

Yet, notwithstanding this universal failure, food products are now selling too low for any profit. These are also falling, and will suffer the same as cotton, under like conditions.

BULLION PURCHASE AND FREE COINAGE.

Bullion purchases will not restore the parity of the two metals. Bimetallism does not tolerate the idea that one metal, gold for instance, shall be set up as the standard by which the other metal, silver, shall be purchased or measured. This is gold monometallism; it fixes gold as the measuring metal, or the sole valuator. Bimetallism means that each metal shall be a standard unto itself. Free coinage of silver means that all silver bullion of 412½ grains standard or 371¼ grains pure silver shall be worth a dollar in lawful payments. The stamp of the Government is affixed to it solely for the purpose of guarantying its weight and fineness. It is the bullion that, in fact, is legally monetized. This being so, the bullion, 371¼ grains, or 412½ grains standard silver is always worth a dollar because the law so declares. All that is necessary to enforce this law is to get Government stamp as to the fact of the weight and fineness. Therefore, silver bullion under free coinage can not fall below the value at which it is declared by law to have in all payments. It can not fall below that value which the Government gives it at the mint, because the mint is an open market for all of it at a fixed price. The same may be said of gold. Mr. Weston, in his excellent book on the silver question, says:

THE LAW OF THE DOUBLE STANDARD.

When the double standard exists, the debtor pays gold or silver at his option, and of course pays always in the cheapest medium. When the difference becomes appreciable, the actual currency tends to be wholly of this cheapest medium, and the dearer goes to other markets as money, or is absorbed in other uses. The employment as money of the medium which is for the time being the cheapest makes a demand for it, and prevents its becoming still cheaper, or, in other words, prevents its greater depreciation, which it restrains always within reasonable limits.

We had a memorable example of that between 1850 and 1860, when the new and great supplies of gold from Australia and California came suddenly and simultaneously upon the world. The expectation of a depreciation of gold was general, and this apprehension was so great in Germany and Belgium that those countries actually demonetized gold. The depreciation did not come, and the preventing cause was the steadying effect of the double standard, and notably in France. The actual currency of that country was, in 1850, almost exclusively silver, but it changed very largely to gold when the new supplies cheapened that metal. As Professor Hanson, of the Berlin University, said in 1868:

"Europe, or rather the whole civilized world, is indebted to French law for its escape from the perturbations in the relative prices of gold and silver menaced by the enormous arrivals of gold from Australia and California. A large part of these arrivals was used in France, where gold replaced silver."

W. Stanley Jevons, an English writer of merit, estimates this absorption of gold in the currency of France, down to 1859, at one hundred million sterling, or nearly $500,000,000. The statements of the gold coinage at the French mints tend to show

that the estimates of Mr. Jevon are too low. During the seventeen years of the reign of Louis Philippe, ending at the commencement of the California discovery, this coinage was £8,600,000, or at an average annual rate of £500,000. From 1850 to 1858, both inclusive, this coinage was £129,587,735, or at an annual average rate of £14,343,082. The increase beyond the rate of the preceding seventeen years is £121,000,000. The degree in which gold had replaced silver in the French currency is reflected in the state of the cash resources of the Bank of France, which, in March, 1876, consisted of 1,325,000,000 francs in gold and 495,000,000 francs in silver.

But we contend that this country can coin the two metals freely and at par and cite the history of France as illustrating this point.

It is not denied that by free coinage of both metals France was able to maintain the parity of the two metals at her ratio of 15½ to 1 for over seventy years, nor can it be seriously doubted that had she continued free coinage the parity would have remained till now. France's territory is not so large as some of our States. Our population is nearly double that of France, and is distributed over an area of 3,000,000 of square miles. Our population is increasing at the rate of 2,000,000 annually. We are warranted in saying that, taking into the account our vast territory, our great wealth, and demands for money for illimitable development, we are stronger, not only than France, but Germany and Great Britain included. Geographically we are fortunately situated for bimetalism.

On this continent to the south of us, and to the west in Asia, there are 800,000,000 of people who use only silver as money. They are the best customers for manufactures and the chief source of foreign trade. We ought to have this trade. Proper legislation on the silver question will greatly aid us in securing it.

The product of our gold mines will answer the demands for our commerce with western Europe, and our silver mines with South America, Mexico, and the Asiatics.

Nature has been bountiful in supplying us with great riches in mines of silver and gold. By the free coinage of both, New York, and not London or Paris, would be the money center for the exchanges of the world.

Upon the point of restoring the parity by bullion purchases, we quote from the minority report against what is known as the Windom or the Conger bill:*

So, as before pointed out, our 355,000,000 of silver dollars had taken the place of so much gold, and to that extent relieved gold of its work and cheapened it the world over. But for the silver we have coined, silver bullion and all other commodities would have been lower as compared to gold than they are now; so that the moment we suspend the coinage of this competing dollar and make gold the sole valuator for all redemptions, as the bill proposes, then gold must of necessity continue more rapidly to rise than heretofore. The divergence in value of the two metals as compared to each other will increase instead of diminish. It is possible that the warehousing of silver may increase its value as compared to other commodities, but gold of necessity would go up at a greater ratio than silver. So that the promoters of the bill will find themselves cheated in the main objects sought—that is, the increase of the value of silver as compared to gold.

It is here, we think, clearly shown why the bullion purchase bill has failed to bring silver at par with gold.

FREE COINAGE REQUIRED BY THE CONSTITUTION.

Gold and silver have been used as precious metals and for the purpose of commercial exchange from time immemorial, and have, from the beginning of civilization, been recognized as money at certain ratios of value. One of the fundamental principles of metallic money is that

* See views of the minority, page 8, Report No. 1086 first session Fifty-first Congress.

nature supplies the volume; the stock on hand of gold and silver throughout the world, together with that which from time to time is being extracted from the mines, constituting the monetary supply. Consequently the volume is not subject to the control of the legislator.

Without going into the history just at this time of metallic money in the various countries of the world, suffice it to state that gold being used in one country exclusively, silver in another, and still others both gold and silver, as standard of money, constitutes the world bimetallic.

Recognizing this fact, and the further fact that by common law both gold and silver were money in the colonies, our fathers constituted this country bimetallic when they provided that the States should make nothing but gold and silver legal tender for the payment of debts, and by the first mint act (1792) authorized the coinage of both gold and silver as the full legal-tender money. Also, recognizing the principle that nature, in the manner stated, should supply the volume of money, the only duty that devolves upon the legislator is to establsh, by law, the ratio of value for the coinage of the two metals, and to provide for the unlimited or free coinage of both at the ratio established. They open the mints of the Government to all comers of gold or silver bullion to be stamped or struck into legal-tender coins.

Having done this, the law of supply and demand regulated the volume. This was our monetary system from 1792 until 1873, when, under the pretext of amending the mint act, the provision that authorized the coinage of a legal-tender silver dollar was omitted, and thus, in effect, demonetizing silver.

Without discussing the circumstances under which this demonetization was done or the purposes for which the same was accomplished, it may be said that the act was passed at a time when the country was on a paper basis, neither metal being in circulation. Therefore, it was done at a time when legislation, with reference to the coin in circulation of the country, was not likely to attract the attention of the people.

This act was clearly an infraction of the true theory of bimetallism, and in conflict with the Constitution. It assumes that Congress should exercise the power of controlling the volume of money by prohibiting the coinage of one of the monetary metals recognized in the Constitution. If, under the Constitution, Congress has the power to prohibit or limit the coinage of silver, so it has that of gold.

To admit that it can demonetize one of the metals is to admit that it can demonetize both; therefore, the gold monometallists, who are so swift in their denunciations of the Supreme Court for holding that Congress has the power to issue paper legal tenders, should consider the result of their own theory of monetary science. For, if Congress has the power to demonetize the metals, it must necessarily result in exercising the authority claimed by the decision of the Supreme Court—that is, in printing legal tenders and forcing them into circulation.

As a constitutional question, it is here claimed that Congress has no lawful right to demonetize either gold or silver, but it is the plain duty to provide for the coinage of both at some regulated value or ratio. The Constitution says "the Congress shall have power * * * to coin money, regulate the value thereof, and of foreign coin." Again, "No State shall * * * make anything but gold and silver coin a tender in payment of debts."

FREE COINAGE PUTS MORE MONEY IN CIRCULATION.

It is now strenuously argued that free coinage would bring no more silver to our mints than we are now obtaining by purchase under the existing law, and would therefore not enlarge the currency. That is certainly an erroneous idea, because, under free coinage, the same amount of bullion would produce more dollars than are now being issued in the form of notes, which notes, as is well known, are issued at the purchase value and not at its coining rate. At the present price of silver 54 million ounces of bullion will make about 48 million dollars at its coining rate, viz: $1.29; this would make about 70 millions, an increase of some 22 millions annually. Further, there is now at all times a surplus, not large, perhaps, but still a surplus bearing the markets. Free coinage would absorb the whole of that surplus, whatever it may be, into our currency.

In the Fifty-first Congress, when this same matter was under consideration, the adverse report of the majority of the Coinage Committee advanced this same idea, *i. e.*, that the existing law furnishes as much currency as free coinage would give us. It must be remembered, though, that the mere number of dollars is not the only thing to be considered. The status of silver the world over is also a matter of prime importance. Replying to this argument of our opponents the minority of the committee in the last Congress in their views clearly point out the difference in principle between the existing law and one for free coinage in the following language:

THE MAJORITY REPORT.

This brings us to a brief consideration of the adverse report filed by the majority of the committee.

That report proceeds upon the assumption that the present law absorbs into our currency substantially the same amount of full legal-tender money that we should be likely to obtain under free coinage. That is probably a mistake, for free coinage would certainly relieve the market of the "surplus" which is continually "bearing" the price. It would give us all there is, whatever it may be. But there is more in this question than the mere number of the dollars to be added to the currency. Upon this point we are entitled to take our adversaries at their own words.

If, in every sale and transfer of goods and property, actual money was used, then one dollar of par value and full legal-tender function would be as available and effective for business purposes as another. But it is undeniably true that in perhaps 90 per cent of mercantile transactions there is an intervention of some form of credit. While this credit is a most important factor in sustaining prices, the credit must itself be sustained by actual cash. If gold is the standard—the ultimate thing to which recourse must be had in the final settlement of balances, and this is what every champion of gold has claimed—then it follows necessarily that every other form of money is itself merely a species of credit. One form of credit can scarcely be very effective in sustaining some other form of credit.

We believe that almost without exception the opponents of free coinage who have appeared before the committee have taken the position that the parity of the silver dollar, the silver certificate, and the Treasury notes issued under the present law is only preserved by the confidence of the people that upon demand they will each and all be *redeemed in gold*.

Whatever our opinion may be as to the soundness of this argument, it can scarcely be questioned that in the present anomalous condition of our currency gold is the main support of the credit upon the basis of which the great bulk of our business is transacted. If that be true, then we do not get the full benefit of the 4,500,000 ounces of silver which from month to month is injected into our currency. That is to say, its effect is mainly confined to those transactions where money actually

passes from hand to hand, and these are supposed to constitute not more than one-tenth of our aggregate business.

When so eminent an economist as Mr. Edward Atkinson, speaking for the financial intelligence of Boston, asserts broadly that the $250,000,000 in silver in the Bank of of France has but little effect upon the strength of the bank, *except at its gold value* for internal trade, the friends of the double standard may be excused for being distrustful of any policy which keeps silver in the position of mere "token money." That the existing law does this is beyond dispute. The late Secretary of the Treasury, in his report for 1889, takes the position frankly that the standard is gold, and that the silver dollar is an anomaly and not an exception, giving as a reason that the silver bullion is bought at its market price as a mere commodity.

The act of July 14, 1890. does not differ in that respect from the one he was speaking of, except as to the amount purchased. A "double standard" with one of the standards doing all the measuring is a gross misnomer; and believing implicitly in the superiority of the double over the single standard, we can not regard with favor any law which leaves the status of either metal in doubt.

At the second session of the Fifty-first Congress an adverse report on the Senate bill for free coinage of silver was made to the House; also the views of the minority presented by Mr. Bartine in favor of the free coinage bill. We submit the following extracts from the views of minority in that report as further argument in favor of the free coinage of silver:

While there can be no doubt that there is in certain quarters a strong opposition to the free coinage of silver, it is by no means an easy matter for us to determine the exact grounds of the opposition. In one breath it is declared that under free coinage the Government will be obliged to pay the silver miner a full dollar for 80 cents' worth of silver; in the next it is asserted that the effect will be to degrade our currency to the basis of 80-cent silver dollars. These two propositions stand directly opposed to each other. The only way by which the silver miner can get a dollar for 80 cents' worth of silver is by raising his bullion to par, that is to say, $1.29 per ounce. When the bullion is at par, the dollar must also be at par, and the 80-cent dollar which haunts the dreams of our opponents will be a thing of the past.

Again it is declared that free coinage will make the United States a dumping ground for all the cheap silver in the world, and then with singular inconsistency it is argued that gold will rise to a premium, retire from circulation, and we shall find ourselves upon a silver basis, with a currency limited in amount and depreciated in value. These contentions involve some very absurd contradictions. First, they assume an inflation of the currency and a contraction of the currency at the same time; secondly, they assume a depreciated dollar with a shrinking volume of currency, a thing which never occurred in the financial history of the world, and which stands directly opposed to recognized economic principles.

It is just as impossible to diminish the volume of money and thus depreciate the dollar as it is to reduce the corn crop and thereby cheapen the corn. If there are vast hoards of silver ready to be thrown into America the moment our mints are open, free coinage certainly will not produce contraction. If there are no such hoards then there is nothing to send the gold into retirement, and again the contraction theory fails.

THE FLOOD OF CHEAP SILVER.

This argument never had a shadow of foundation upon which to rest. No man can locate or attempts to locate the whereabouts of any great accumulation of silver that would be attracted to America by free coinage. It would not come from India, for that country has not half as much as she needs and is all the time grasping for more. It is nonsense to talk about the Hindoos melting down their gods and goddesses. They have worshiped their idols from the remotest antiquity and they regard them with just as much superstitious reverence to-day as they did a thousand years ago. Why did they not melt them down and sell them prior to 1873, when silver was worth $1.33 an ounce all over the continent of Europe?

It is equally ridiculous to assume that they will part with their coin, for notwithstanding the fact that they have to pay England a tribute of $60,000,000 annually they continue to absorb silver at the rate of from $30,000,000 to $40,000,000 a year. India has only about $900,000,000 silver coin—scarcely $4 per capita of the population—and no other money. Every student of East India finance recognizes and admits the fact that the abandonment of the silver standard by Hindostan is scarcely within the limits of possibility. The Hindoos have never done a thing that even gave color to such a thought. The idea that these people, eminently conservative, are suddenly going to reverse the traditions of untold centuries of time, and make a wild rush with their rupees and their deities to the mints of the United States is entirely beneath the dignity of American statesmanship.

The economic impossibility of India unloading upon us is clearly shown by the following extract from "Hyndman's Bankruptcy of India:"

"Unlike former conquerers of India, we do not live in the country, and as a consequence we take out of it each year more than the people can afford. The total net revenues of India is under £40,000,000 a year. Not less than £20,000,000 worth of agricultural produce—more than the entire net income of the Government derived from the land revenue—is sent out of India every year without any direct commercial equivalent. Just think what this (and it is an underestimate by over 50 per cent) really means.

"It means that year after year, in dearth and in plenty, in drought and in flood, £20,000,000 is taken from perhaps the poorest on the earth to bring to us here in England (or to invest in unremunerative public works); it means that so many millions more are condemned to starvation at the next scarcity; it means that during the twenty years, 1858–1878, £400,000,000 have been so applied. Call this payment for good administration, gloss it over in any way you please, need we look further for the cause of the growing impoverishment of India?

"Not a single Englishman would say so if last year, not to speak of years before, £67,000,000, the agricultural rent of the country, had been sent hence to the Continent for nothing. Yet £67,000,000 to England is literally a flea bite compared with what £20,000,000 is to India."

Imagine such a country, fitly described as "bleeding to death," flooding us with silver.

EUROPEAN COIN.

According to the figures of the Director of the Mint, the entire amount of silver coin in the world outside of the United States is only $3,338,500,000, and of this considerable more than one-half is in India, China, Japan, and the Straits, where it is as completely buried as if it was thrown into the sea. The aggregate amount in Europe is $1,482,400,000—roughly speaking, $4 per capita for that Continent, and of this nearly one-half is held by France. The following table shows the exact figures, and also the coinage ratios of the different countries.

Table showing the estimated stock of silver held by foreign countries, the statement of each, and the ratio of gold to silver in coinage.

Countries.	Full legal tender.	Limited tender.	Total.	Standard.	Ratio of full legal tender silver to gold.	Ratio of limited tender silver to gold.
United Kingdom	.....	$100,000,000	$100,000,000	Gold	.....	1- 1428
France	$650,000,000	50,000,000	700,000,000	Bimetallic	1-155	1- 1438
Germany	102,000,000	43,000,000	145,000,000	Gold	.....	1-13867
Belgium	48,400,000	6,600,000	55,000,000	Bimetallic	1-155	1- 1438
Italy	25,800,000	34,200,000	60,000,000	....do	1-155	1- 1438
Switzerland	11,400,000	3,600,000	15,000,000	....do	1-156	1- 1438
Greece	1,800,000	2,200,000	4,000,000	....do	1-155	1- 1438
Spain	90,000,000	35,000,000	125,000,000	....do	1-155	1- 1438
Portugal	.....	10,000,000	10,000,000	Gold	.....	1- 1408
Austria-Hungary	90,000,000	.....	90,000,000	Silver	1-153	.....
Netherlands	61,800,000	3,200,000	65,000,000	Bimetallic	1-155	1- 15
Scandinavian Union	.....	10,000,000	10,000,000	Gold	.....	1- 1488
Russia	22,000,000	38,000,000	60,000,000	Silver	1-153	1- 15
Turkey	.....	45,000,000	45,000,000	Gold	.....	1- 151
Australia	.....	7,000,000	7,000,000	....do	.....	1- 1428
Egypt	.....	15,000,000	15,000,000	....do	.....	1- 1568
Mexico	50,000,000	.....	50,000,000	Silver	1-165	.....
Central American States	500,000	.....	500,000	....do	1-155	.....
South America	25,000,000	.....	25,000,000	....do	1-155	.....
Japan	50,000,000	.....	50,000,000	Bimetallic	1-1618	.....
India	900,000,000	.....	900,000,000	....do	1-15	.....
China	700,000,000	.....	700,000,000	....do	.....	.....
The Straits	100,000,000	.....	100,000,000	....do	.....	.....
Canada	.....	5,000,000	5,000,000	Gold	.....	1- 1495
Cuba, Haiti, etc	1,200,000	800,000	2,000,000	Bimetallic	*1-155	.....
Total	2,929,900,000	408,600,000	3,338,500,000			

*Haiti.

These are the figures upon which the late Secretary based his last speech. With all respect for the dead, of whom we would speak with the utmost tenderness, we feel constrained to say that they entirely fail to bear out his conclusions. It signifies nothing to say that there is so much coin in Europe. The question is how much of

it will come here. A glance at the table will show that no European state can dispense with any considerable amount of silver coin. Germany long ago sold all that she could spare. France has none; Italy has none; Spain has none; Austria has none, and Russia has none.

A further glance at this table will show that in Europe the coinage rates range from a little less than 14 to 1 to 15½ to one, so that, to convert European silver coin into ours at 16 to 1 would involve a loss of from 3 to 12 per cent. Stated in terms of American money, this means a dead loss of $33,000,000 upon the full legal-tender coin alone. This is upon the assumption that under free coinage the American dollar remains at par. Should it fail to do so the loss by exchange would be still greater.

MOVEMENTS OF THE PRECIOUS METALS.

It must be remembered that the trend of commercial currents is far more potent in controlling the movements of the precious metals than mere coining ratios. Why does not all the silver in the world go to Mexico for coinage? Simply because there is nothing in that country to attract it. Why does it not go to India, where the coinage ratio is nearly 7 per cent higher than ours and where its purchasing power has been fully preserved? Because India can get no more of it than is necessary to pay her the balance due after her obligations to England are liquidated.

Prior to 1873 we coined both gold and silver free at the ratio of 16 to 1. At the American mint an ounce of gold was equivalent to 16 ounces of silver, while in Europe it was only equal to 15½. If, then, free coinage is going to flood the country with cheap silver, why were we not formerly flooded with cheap gold? The answer comes as naturally as water flowing over a dam. The balance of trade was adverse, and as a result, so far from being flooded with gold from any other country, we could not even keep the product of our own mines.

On the other hand, France coined gold at a valuation 3 per cent lower than we gave it, and yet from 1860 to 1871, inclusive, her coinage of that metal exceeded ours by $130,000,000. It amounted to about $510,000,000, and, what is more important, she not only coined it, but she kept it, or at any rate the most of it, for, while our exports of gold amounted to $417,000,000 more than our imports, France imported about $365,000,000 more gold than she exported, which tends strongly to prove that the precious metals, like anything else, will go where the demand for them is greatest, and this almost without regard to coining ratio.

It is no doubt true that, other conditions being equal, either metal will go where its coining value is the greatest; but other conditions are not, never have been, and probably never will be equal, and the rule must therefore be accepted with much of reservation.

THE GRESHAM LAW,

which is so frequently invoked, touches this question but very remotely, if at all. Sir Thomas Gresham was not dealing with bimetalism or anything at all like it when he laid down his famous maxim. He was considering merely the vitiated coinage of England.

It had been observed that a large proportion of the coins of that country were clipped, abraded, and below the legal weight. Investigation disclosed the cause, which was a very simple one. When coins were to be shipped abroad new ones were selected, because, being heavier, their bullion value was greater and in foreign countries they were not current coin. So when a smith found it necessary to melt down coins in his business he chose the heavy ones, because he thereby obtained a greater amount of gold or silver.

From these facts Gresham laid down the rule that bad money drives the good out of circulation; and in a loose way this law is appealed to every time free coinage is mentioned. It is insisted that the "cheap silver will drive out the precious gold."

But this is assuming the very point in dispute, and the difference between the two cases can be seen at a glance. A clipped and abraded coin under legal weight is also under legal value even in the country of its issue, although from custom it will circulate and pass current almost indefinitely.

But where "simple bullion" is needed obviously the exchange of a light coin for a heavy one or the use of a heavy one instead of a light one is a positive advantage equal to the difference in weight. There is at all times an inducement to make the exchange. The motive is apparent upon the face of every transaction.

But no person who has appeared before the committee has been able to show how, under free coinage, the Gresham law could deprive us of our gold. Men never do anything without a motive. It is admitted by every person familiar with the subject that silver bullion is of substantially the same value in all the commercial centers of the world. Therefore, if silver should rise to 1.29 in New York, the same price would obtain in London. Hence there would be no profit in sending gold to

London to buy silver, for it would cost as much there as it would be worth here. If, on the other hand, the bullion remain at a discount, the depreciation of the dollar must be the same, because the bullion being convertible into coin, they must be of the same value. This depreciation would manifest itself in a diminished purchasing power, and nothing would be gained by purchasing depreciated bullion which could only be converted into equally depreciated coin.

It may be said that this depreciated coin (supposing it to exist) would be available for the payments of debts; but it is hardly to be supposed that the debtors of the country would or could enter into a general scheme of gathering up gold, exchanging that for silver, and thus meeting their obligations. Such a course, if resorted to, would create a demand for silver that would inevitably send it to par at an early day. But the fact is that, primarily, whatever silver might reach us from abroad, must come in the course of trade, and, as we have shown, there could be no motive in making the exchange.

Even should a portion of our gold be displaced we think that the evil to result has been greatly exaggerated. We can not be deprived of our gold without getting a full equivalent for it. A thousand gold dollars' worth of silver is just as valuable as a thousand gold dollars' worth of gold. Should such an exchange be made we would be no poorer, and the country would have the same basis for a paper currency as before.

PAPER MONEY.

But it is said "depreciated paper money always drives out gold."

This is not a parallel case. Paper is not primary money at all. It is merely a substitute, and it is not to be supposed that the principal and the substitute will both be in circulation at the same time.

Wherever we find a depreciated paper currency we will always find that the paper money was created by the Government because it had no gold or silver, or, if any, a wholly inadequate supply. It is a fair thing to say that the greenbacks drove gold and silver out of circulation in this country.

Everybody ought to know that at the outbreak of our civil war there was virtually no gold or silver in the country. Specie payments were universally suspended, and the Treasury was as empty as if it had been swept by a tornado.

It was to supply the deficiency that the greenbacks were issued. So that instead of the paper forcing gold out of circulation, it was the scarcity of gold that forced the paper into circulation; and then this same scarcity had the further effect of causing the paper to depreciate.

In no conceivable aspect of this question do we recognize the propriety of comparing paper with silver any more than with gold. We frequently hear it said that we might just as well have free coinage of paper as of silver, the difference being only one of degree. Those who use this argument seem to be oblivious of the fact that questions of degree are of the very essence of the whole science of money. We are now carrying $500,000,000 in paper and every dollar is at par. But if we were to attempt to float $500,000,000,000, the result would be depreciation, repudiation and an utter collapse of national credit. And yet it is only a question of degree.

The annual product of silver is about 125,000,000 ounces. If it were 125,000,000 tons, silver would no longer be a precious metal, and its free coinage would never be thought of. Still, the illustration only presents another question of degree.

Many more examples might be given, but these will suffice.

The value of paper money rests solely upon the idea of redemption.

The supply is practically unlimited, for it is as easy to make a bill for $10,000 as one for a single dollar, the only difference being in the words and figures which it bears.

The old Continental money depreciated because the issues outran the capacity of its creator for redemption; and when the government which created it passed out of existence, it became a mere cabinet curiosity. Our greenbacks depreciated because we were engaged in a great civil war and it was uncertain whether the Government would live through the storm, and no one could tell to what length it might be driven by the exigencies of war, in the issuance of paper. The French assignats were issued upon the basis of confiscated church lands; but they fell as flat and worthless as our Continental money.

It may not be out of place for us to remark in this connection, by way of contrast, that the country which was not able to maintain the assignats at any value never had the slightest trouble in holding silver absolutely at par; and in dismissing this branch of the subject we will simply invite attention to the fact that while the pages of history are laden with instances of ruin wrought by paper inflation, we fail to find one in which any country or state has ever been injured by a superabundance of silver.

HOARDING.

Now a word as to hoarding. Gold will certainly not be hoarded to any considerable extent, unless there is something to be gained by it. A miser will, of course, cling to every dollar and hide it away through fear of losing it, but we can not frame our legislation with reference to the idiosyncrasies of that unhappy class of people. As we have already suggested, the hoarding of gold would diminish the volume of money in actual circulation. This would increase the demand for currency and necessarily enhance its value. The natural result would be to bring back the gold into circulation, for there are few persons who will hoard any kind of money in the face of a promising investment.

We believe that this talk of "hoarding" is merely "a cunning device of the enemy." We always hear it when silver legislation is proposed. But suppose it be true, does that prove free coinage to be a bad thing? Certainly not. It only indicates that there are persons who think it is a bad thing. Of course all people can not think alike. Many believe that the McKinley bill was a "bad thing;" others looked upon the elections bill as a "bad thing;" still others regarded the shipping bill as a "bad thing;" and it is impossible to recall a single measure of any importance ever before the American Congress that was not denounced by some party or some faction as bad or dangerous legislation. But we can not stop legislating on that account.

These people who are so mortally afraid of free coinage may be right, but it is worthy of note that for 15 years they have been filling the air with their lamentations over the coinage of silver, and that every danger which they have professed to see has proved as shadowy and unsubstantial as the "Specter of Brocken." So many failures ought to make them a little doubtful as to their inspiration, and at least a little more oracular in their utterances. They ought to couch their predictions in ambiguous phrase so that whatever the outcome they can claim fulfillment.

BANKS WILL CONTRACT FOR GOLD.

In direct contradiction of the idea of hoarding, it is argued that under the free coinage of silver the banks would make their contracts payable in gold. Such a course would keep gold in circulation and prevent us from ever reaching a silver basis. Some of the opponents of silver claim that such contracts will be made, while others declare that the banks must do business in the currency of the country. But in either event we do not look upon it as a matter of very much concern. Under any system of finance the banks will probably do as they always have done, that is, look out for their own interests to the best of their ability. If they contract for gold, that will keep gold in circulation; if they use the currency of the country, that will help sustain the currency. As we have no means of knowing what they will do, and our opponents are divided upon the point, we shall have to let them fight it out among themselves.

AFFECTING VALUES BY LEGISLATION.

It is constantly insisted that the value of gold and silver is wholly independent of legislation; that the Government stamp can add nothing to the value of a metal; that value can not be increased by "fiat," etc. These are all different forms of the same argument, and it is vicious in this: That it entirely misrepresents our position. No man who possesses even an elementary knowledge of economics will claim that the value of silver or anything else can be affected by mere "fiat."

If a law were to be passed declaring that 412½ grains of standard silver should be worth as much as a gold dollar, and stop there, that would be "fiat," and it would have no more effect than the wind that blows. In 1811, when specie payments were suspended in England, the House of Commons adopted a resolution declaring that Bank of England notes "have hitherto been and are at this time held in public estimation to be equivalent to the legal coin of the realm, and generally accepted as such in all pecuniary transactions to which such coin is lawfully applicable." At that very moment those notes were at a discount of from 15 to 20 per cent.

The effect of the resolution can be readily imagined. It might just as well have declared them to be at a premium of 1,000 per cent. It was mere "fiat." But if the law which prohibited the redemption of the notes had been repealed, or they had been made legal tender, which they were not, or anything else had been done which tended to strengthen their credit or enlarge their use, such action would have been a very different thing. So with silver. Its remonetization involves much more than a high-sounding pronunciamento of value.

The Government declares that 412½ grains of standard silver shall constitute a dollar; that this dollar shall be a legal tender for all debts, public and private, and that whoever has the bullion may have it converted into coin free of charge. In short,

the bullion is given a *use* that was formerly denied it, and this additional use gives it an enhanced value. Consider for a moment how the principle operates. The dollar is at par, but the bullion is at a discount. Why? Because the bullion is not a solvent of debt, while the dollar is. If all the bullion went direct to the mint, obviously there would be no such thing as a bullion market. There could be no silver quotations, and a discount would be impossible.

But it does not go direct to the mint, and a portion of it can not go there at all. Primarily the entire mass is thrown upon the market, sold as a mere commodity, and the surplus, which it is known can not be converted into coin, fixes the quotations at which the value of the whole is estimated. But this is a misleading estimate. Every ounce of American silver coin and bullion in the Treasury is worth 1.29. Every piece of European or Asiatic coin is either at an absolute parity with gold or so fixed in its *situs* and use that it has no bearing upon the market price.

The silver which is in the form of jewelry and plate is worth vastly more because of the artistic labor that is commingled with it. Even the crude surplus bullion upon which the market quotations are based could not all be purchased at once at the market price. A purchase of 15,000,000 ounces at New York in a lump would probably raise the price to nearly 1.29. But the fact that some of it *can not be sold* at all, makes it possible to buy every ounce a little at a time at what we call the market price.

The fact that there is a surplus continually pressing upon the market and quoted at figures considerably below the coining rate, is the circumstance that beclouds and confuses this entire question.

THE GOVERNMENT STAMP.

So with the Government stamp. The mechanical work of dividing the metal into pieces and stamping a certain design upon them is not even an element in the real question. That is merely intended for its convenient use. The "trade dollar" bears the Government stamp, is of the same fineness and is 7½ grains heavier than the standard dollar, but it is worth 18 to 20 cents less. Why is that? Because it is only a piece of bullion, while the standard dollar is *money*.

The stamp upon the latter is the Government certificate that the piece is of the requisite weight and fineness, and that it has been endowed by the law with the quality of being a tender for debt.

GOLD BULLION WORTH JUST AS MUCH AS GOLD COIN.

The claim that the value of gold can not be affected by legislation seems to rest upon the fact that the bullion is worth just as much as the coin.

This is a most illogical conclusion, because when the bullion can be converted into coin free of charge no man will part with it for anything below its coin value unless he be gone daft.

But if a charge were imposed upon the coinage, would the bullion be worth as much as the coin? Plainly not.

It is amazing that so many intelligent people can not or will not see that the whole scheme of coinage is a simple matter of law. In England the value of gold is said to be £3 17*s*. 10½*d*. an ounce. Why? Because by *act of Parliament* the owner of gold bullion can take it to the mint and have it coined at that rate. It is the coinage law that fixes the nominal value of gold. But prior to 1844 the market price of bullion was, upon an average, about £3 17*s*. 6*d*. an ounce, 4½ pence less than the coin. Why was that?

Because the depositor had to wait about two months for his coin, which operated as a discount upon the bullion. In speaking of this matter Prof. Sumner uses the following language:

"The figures above given show the par of the coins, grain for grain, but coins are worth more than bullion, being manufactured—that is, an ounce of gold in coin must buy more goods than an ounce of gold in bullion. The difference is the cost of manufacture. Gallatin says that it took two months to coin bullion left at the mint, which involved a loss of 1 per cent interest. There was no seigniorage or charge for coining. In England there was no seigniorage, and the loss of interest was represented by the difference between the mint price of bullion—£3 17*s*. 10*d*. per ounce, and the market price, which was then generally £3 17*s*. 6*d*.—that is, it cost 4½*d*. to get an ounce coined.

NOTE.—Since 1844 the bank is obliged by law to give its notes at £3 17*s*. 9*d*. for all bullion offered, reducing the difference between coin and bullion.

Prof. Sumner is an outspoken champion of the single standard, for which reason we quote him. The foregoing extract is from his "History of American Currency." It very clearly shows the difference between gold bullion, which was not money, and coin which was, and it suggests the query:

"If a delay of two months made a difference of 4½ pence against the bullion and in favor of the coin, how much would the difference have been if the bullion could not have been coined at all?"

In truth, both gold and silver have been artificially supported ever since their use as money began. A large proportion of their value has been owing to the fact that vast amounts have been withdrawn from other avenues of employment and dedicated to monetary use. But this support has been partially withdrawn from silver by the limitations to which it has been subjected, while gold has been given and is now receiving a stronger support than ever. Gold and silver occupying a common field, any restriction placed upon the ues of one must, in the nature of things, operate as an additional prop to the other.

ECONOMIC LAWS.

The absurdity, we might almost say the insincerity, of the constant invocation of "economic laws," and the deprecation of legislative interference with silver, is conclusively shown by the fact that many who use it are determined advocates of "protection" the avowed purpose of which is to so regulate values in this country as to guard the American workingmen against European competition.

Both the protectionist and the free-trader must necessarily believe that legislation will affect values. The one favors the policy because it tends to keep the range of prices higher in this country than they are abroad, and the other opposes it for the same reason. If we can affect the value of iron or steel by legislation we can certainly affect the value of gold and silver.

But the fatal error of this appeal to "economic laws" is that it confounds the distinction between things that are natural and those that are artificial. A natural law, as, for example, that which governs the transmission of light or the movements of oceanic currents, operates independently of man. But economic laws apply only to the relations existing among men and must act through human agencies. Separate and apart from the actions of men, an economic law is a mere abstraction.

It is impossible to conceive of such a thing as a law of supply and demand, except through the wants and wishes of mankind. Value, of which we hear so much, is nothing but a measure of the strength of human desire. It is undoubtedly true, as a basic principle, that the price or value of a thing depends upon the supply relative to the demand. Men can not change the abstract principle, but they can change the elements through which it operates. They can increase or diminish the supply and increase or diminish the demand. An article—as a fine painting—may be of priceless value to a civilized man and of no value at all to the untutored savage. All values are mainly artificial, changing with the social condition of man.

The use of gold and silver as money is a purely artificial use, and yet it is the chief element in the value of both.

Therefore the enlargement of the use of silver, or its utilization in a more favorable mode, must necessarily affect its value, and it is a waste of time and labor to argue so plain a proposition with any man who denies it.

WHY NOT PUT A DOLLAR'S WORTH OF SILVER INTO THE DOLLAR?

This question is asked over and over again. It is declared if we are to have the free coinage of silver at all it ought to be at a ratio approximating the market price. The answer is simple and conclusive to any person who is disposed to be fair. There is a dollar's worth of silver in the dollar now. As we have already shown, considered merely as bullion, it will buy as much of commodities generally as it would when it was nominally above par—and no man has a right to ask anything more than that in our standard coin.

The silver dollar is all right. The trouble is with the gold dollar. The partial demonetization of silver created an increased demand for gold which has boosted the latter up to about 1.40 in its purchasing power. That is what we complain of. And now it is coolly proposed to us that we put enough silver into the dollar to make that also 1.40. Such a concession on our part would be a complete surrender of the vital principle at the bottom of this entire question. Nothing could be more unfair than to first change the ratio by invidious legislation and then change the weight of the silver coin to restore the equivalence

Instead of giving the relief which we seek, such a course would tend to keep silver permanently at its present price and perpetuate the evil of which we complain.

The whole theory of bimetallism is that it links the two metals together and practically holds them there. Hence, if we were to remonetize silver at, say, 20 to 1, it could never rise much above that figure unless other bimetallic nations should resume coinage at a higher valuation.

Silver never failed to sustain itself at 15½ or 16 to 1 when it stood upon an equal plane before the law, and we believe that it will do so again if given a chance.

FREE COINAGE WHEN SILVER IS AT PAR.

Latterly we have been met with the suggestion that there will be no objection to free coinage when silver is at par, but this shows the same confusion of thought. Let us borrow a simple illustration:

Suppose there were two kinds of wheat, red and white. A law is passed prohibiting the making of bread out of the white grain. Would it sell for as much in the market as its more favored rival? And when the unfortunate farmer, whose lands perchance will produce that grain only, complains of the unjust discrimination, what would be thought of the broad-gauged statesman who would say to him: "Why, my dear sir, your wheat is not worth as much as the other, and consequently you have no right to make bread of it; but restore it to a value equal to that of the other grain and we will then extend to it the same privilege."

How would the farmer proceed to restore the value of a grain which had been "outlawed," so to speak, and maintain its parity with one that could be freely used? How can any two commodities be kept at a parity except by linking them together in some way? This can only be done by free coinage. At all events, that is the way and the only way in which it has been done. We ask for it as a remedy, and we are gravely told that when we have accomplished the result in some other way, the remedy will be no longer withheld.

Every scheme recently brought forward by the opponents of free coinage has had for its avowed purpose the closing of the gap between the two metals, thus paving the way for free coinage. But why, we may ask, have free coinage at any time, unless the principle is a sound one? If some other method is preferable to *bring* the metals together, why is it not also preferable to *hold* them together.

It takes exactly the same economic force to hold an article at a given price as it does to raise it to that price. If silver bullion were worth 129, how would free coinage operate to keep it there? Just in this way: The holder of bullion would take no less because he could at once convert it into coin at that rate. If the bullion were quoted at 100, the operation would be precisely the same. The moment the law went into effect, the 100 quotation must cease; the bullion must rise to its coin value, *i. e.*, 129, and then all that free coinage would have to do would be to hold it there. So, when it is conceded that free coinage will preserve the bimetallic par, it carries with it the concession that free coinage is capable of establishing that par.

MINORITY REPORT.

Mr. WILLIAMS, of Massachusetts, from the Committee on Coinage, Weights, and Measures, submitted the following as the views of the minority, to accompany H. R. 4426:

CHARACTER AND PURPOSE OF THE BILL.

The bill reported by the majority of the committee begins with a provision that the unit of value in the United States shall be two units; one the standard silver dollar, worth 70 cents, and the other the gold dollar, worth 100 cents.

The bill further provides that standard gold and silver coin shall be received in the United States in payment of all debts.

The first eight lines of the bill develop its true purpose. They provide two different dollars and a compulsion upon the citizen to receive either in payment of debts due him. It does not require any knowledge of monetary or financial laws to demonstrate that the compulsion of the legal-tender power must force upon the creditor a cheaper and debased dollar. Few debtors will pay 100 cents to discharge their obligations when 70 cents will suffice in law.

Section 2 of the bill provides for the retirement of gold and silver certificates and the substitution therefor of a so-called coin note, which presumably means a note payable in gold or silver coin, at the option of the Government. This bill, therefore, converts all existing Government paper into paper which may be paid in silver, and leaves no paper which must be paid in gold. It is evidently intended to clear away all obstructions in the form of pledges to pay gold, and, without a distinct declaration of repudiation, to provide an easy track on which we may descend to the silver monometallic standard.

The bill reported by the majority of the committee is not alone for the free coinage of the two metals, but provides that the Government itself shall receive all bullion offered, and shall issue its notes for such bullion not at the market rate therefor but at the coinage value fixed in the bill. This provision is doubtless inserted in recognition of the fact that silver coin is not only debased in value in the market, but is condemned as money by our own people, who refuse to use more than a small fraction of our total coinage. Because it is not acceptable money this bill compels the Government to buy silver as bullion, and pay for it nearly 50 per cent more than its present market value with a coin note which will be redeemable in gold so long as we maintain both metals in circulation at the fixed ratio.

THE CONDITION OF SILVER IN THE MARKET.

The true meaning and effect of this bill should not be clouded by any misunderstanding of the present value and convertibility of silver. The standard silver dollar of the United States contains silver which is bought by the Government for about 70 cents and stamped a dollar. Any citizen can to-day purchase a like amount of silver for 70 cents. He can purchase 533⅓ grains of silver bullion with 371¼ grains of silver, which has been stamped as a dollar by the Government. It should be understood that it is not the virtue of silver which makes 70 cents pass for a dollar, but it is the Government stamp, behind which is the credit of the people, the pledge of the wealth and honor of the Republic.

The value of silver is at the present time about 90 cents per ounce. This is not the value in New York or Washington alone or for coinage purposes alone. It is the world's price and no merchants and no country in the world will pay more for it. The question of free coinage should not be complicated by the erroneous statement, so often repeated, that silver is worth anywhere in the world more than the quoted market price. It is not true that silver sells to-day in Europe at a ratio of 15½ of silver to 1 of gold, or that India and China are paying $1.33 per ounce. The price of silver all over the world is not far from 90 cents per ounce. Its ratio to gold the world over is about 23 to 1; if silver passes anywhere current at a higher price than this, it is silver coin, which passes not for the value of silver but by virtue of the promise of redemption which is behind the stamp of some Government.

It is a fact that in this country the silver and paper dollars are exchangeable for gold dollars because the Government can and will exchange upon demand these tokens or promises for the best dollar in the world. A 70-cent dollar is accepted in our market because everyone has faith that this people will never swindle its creditors or defraud its own citizens by paying its obligations in anything but the best money.

There can be no doubt of the purpose of a majority of the committee to force a depreciated dollar upon the country. A motion to make the silver "unit," named in the bill, correspond substantially with the gold 'unit" in market value was rejected by the majority.

COVERT REPUDIATION IS THE DANGER OF THE BILL.

The peril is not great of an avowed depreciation by our government of the value of its own promises, we shall never openly repudiate our debts, or corrupt the medium of payment; the danger lies in legislation such as this bill proposes which shall make the Government unable to maintain its promises and tokens on the basis upon which they have been accepted. That basis is the dollar which is changeable nowhere, exchangeable everywhere; which does not give up 30 cents at our border, nor yield anything to fire or water—the dollar of gold. Substantially all obligations now existing in this country are expressly payable in gold, or have been incurred since this nation resumed specie payments and has continued on a gold basis. The gold dollar is, therefore, not only the best, but the only honest dollar in which obligations can now be discharged. But, under plausible theory or confident prophecy, the citizens of this country may be misled into repudiation, which they would not consciously approve. To make this bill understood as a measure of repudiation is to secure its defeat.

THE BILL MUST PRECIPITATE A SILVER STANDARD.

The effect of the bill clearly must be this: That the mints of this country shall receive all the silver which may be sent from any quarter for coinage into dollars, 16 grains in which shall be convertible with 1 grain in the gold dollar. It is perfectly clear that at the very moment the Treasury of the United States shall refuse to pay gold coin upon demand no one else will receive 16 grains of silver in lieu of 1 grain of gold, because the single customer of the world for silver at that price has refused to purchase. Surely there can be no doubt that the effort to raise the market price of silver from 90 cents an ounce to $1.29¼ an ounce is dependent entirely upon the combined willingness and ability of the United States Government to stand alone as a buyer of silver at all times and in any quantity at the price fixed by this law in gold.

It does not follow that the price of silver fixed by the ratio in this bill can be maintained even if our Government is willing to receive the payment of its dues in silver coin, and to pay its debts in gold. The exchange value of silver would be dependent not alone upon the willingness of the Government to keep up the exchange, but upon its ability so to do; and the judgment as to that ability is passed not alone in the Department of the Treasury, but in the markets of the world.

Even speculation upon the ultimate failure of our Treasury to maintain its policy might well suffice to drive gold to a premium, precipitate a scramble for the gold in the Treasury, and suspend gold payments by the Government, regardless of the will of the Secretary of the Treasury.

The minority of this committee submit that the only possible result of the legislation proposed in this bill is the prompt suspension of gold payments by this Government and the immediate adoption of the cheaper monetary standard of silver.

HISTORY OF MODERN MONETARY CHANGES.

For a true understanding of the perils of free coinage under existing monetary conditions and the necessity for international action to restore silver to its former value and dignity as a money metal, it is important to keep in mind the nature of the question and the actual present position of silver in the world's economy.

They who reason that because free coinage was once possible in this country it is not dangerous now, may be referred to the history of recent changes in the monetary conditions of the world.

Up to the year 1873 the whole civilized world, except Great Britain, accepted silver as a precious money metal at a ratio of exchange with gold which was fixed at or near the current market price by general consent and the legislation of leading commercial countries. The supply of silver was easily exhausted and its price easily maintained because the mints of the world were open to it and the leading nations of the world consented to evchange it freely for gold at a fixed ratio. Doubtless the consent of nations to utilize the whole silver product of the world as money and to receive it freely in exchange for gold has in the past and can now maintain it in use as a money metal without limit. But since the year 1873 silver has been practically repudiated by the continental nations of Europe. The history of this change is a vital element in the problem of free coinage and should be briefly recited here.

The experience of Europe in the face of Germany's demonetization furnishes a historical lesson which should be learned by everyone who

above the market value of the bullion than is our own depreciated silver coin.

THIS BILL WILL BRING SILVER FROM FOREIGN COUNTRIES.

With this burdensome stock of silver cumbering the treasuries of Europe, it is claimed by free-coinage advocates that none of it will be unloaded upon our open mints. Yet it is familiar to all European financiers that most of the nations of Europe are anxious to secure more gold and to hold less silver.

At present there is not a mint in Europe which is open to the free coinage of silver, and the actual coinage is so small as hardly to constitute an element in the consumption of the annual silver product. No further argument is needed as to the temper of Europe toward silver than the fact that not one of its nations is willing to add to its present stock of this metal.

In point of fact, as the slightest acquaintance with the monetary history of Europe since 1867 will show, all the nations of Europe entertained at that time a desire to adopt the single gold standard, and the reports of the French commissioners from 1867 to 1870 indicated clearly that it was during that time the settled policy of France to place herself upon the single gold standard. Germany forestalled the action of France and drove, by her policy, the states of Europe to close their open mints against the coinage of silver. The closing of these mints was clearly an indication that these countries would not run the risk of losing their gold and becoming silver-standard countries.

It is well known that Austria-Hungary has already adopted the policy of resuming specie payments upon the single gold standard, and is now in the money markets of Germany and England attempting to obtain gold for this purpose. Indeed no one with any knowledge of the monetary conditions of Europe can doubt that at the present time everyone of the European countries would eagerly exchange a great part of their silver coin for gold coin, even at a large loss from the coinage value of the silver.

It is well known that Germany did not complete its substitution of gold for silver owing to the rapid decline in the price of silver, and that more than $100,000,000 in old thalers are still unredeemed by the Government. It is known that the Bank of France has in its vaults at least $250,000,000 in silver 5-franc pieces which the people refuse to take into the circulation of that country. Austria is openly in the market to borrow $100,000,000 of gold, and we have, therefore, in sight, without the necessity of legislation on the part of foreign governments, the demand for $450,000,000 in gold.

The United States is the only source of supply to Europe, and our gold by virtue of this bill becomes available to take the place of unusable silver. The free-coinage problem is not, therefore, one that concerns the mere trifle of superfluous bullion or the annual product of the mines, but it involves probable action by every nation in continental Europe to dispose of its silver in exchange for gold when any market shall offer such exchange.

SILVER COMING FROM ABROAD WOULD DESTROY GOLD STANDARD.

France alone has $700,000,000 of silver coin. This country has a stock of gold of about the same amount. The wildness and audacity of the free-coinage scheme becomes apparent when we consider the results. If the Bank of France alone should determine, as she would without hesitation, to send her huge supply of silver to this country and ex-

change it for gold, what would be the result? The $120,000,000 of gold in our Government Treasury would speedily be exhausted, and our greenbacks be left without any reserve for redemption; every dollar of gold in circulation would be hoarded by the people and by bankers to await the result of this tremendous monetary experiment. Not a person or bank would pay out a gold dollar when the best financial authorities assured them that in a few days or a few weeks the premium upon that dollar would exceed the accumulated interest of years which would come from any other investment.

With what gold would our Government then meet the silver bullion of France which would be sent here to be exchanged for gold at the ratio of sixteen to one? Even if the law confers upon the Secretary of the Treasury authority to borrow gold for such a purpose any Secretary who should exercise this right, to meet the hundreds of millions which France alone might demand, would be driven from his place by an indignant people. There can be no doubt that the only alternative which our Government would have, would be the refusal to pay gold, and the payment of creditors in silver coin. With this act the adoption of the silver standard is complete and we stand upon the monetary plane of India and China.

FAILURE OF LEGISLATION TO RAISE PRICE OF SILVER.

Since 1872 silver has suffered a substantial, steady decline. The Latin Union in 1874 limited for one year the coinage of silver, in full confidence that the effect of Germany's sales would be temporary and that the mints might be opened again at the end of the year. This confidence was shown again in each year from 1876 to 1878 when the limitation of coinage was made but from year to year.

In 1878, when the Bland–Allison bill became a law it was distinctly understood that that law would raise the price of silver, even if it did not hold it at the ratio of sixteen of silver to one of gold.

The messages of Presidents and the reports of Secretaries of the Treasury from 1878 to 1890, have been filled with surprise and lamentation that the large Government purchases of silver under the law of 1878, were attended with a steady decline in the market value of silver. In 1890 the demand was made for larger purchases by the Government, and a law was passed which made the Government a purchaser of silver beyond the annual, available product of the American mines. It was commonly agreed that this huge purchase would raise the price of silver, and it was confidently announced in Congress by men who assumed to be leaders of the silver movement that these purchases would raise the market price of silver to $1.29¼.

Yet, since the passage of the act of 1890, silver, after spasmodic upward movement, has persistently declined until it has reached, within a few days, the lowest price which has been known in the history of civilization. The confident predictions and opinions of experts and legislators that such legislation would check the steady decline of silver in the market have been uniformly discredited. What shall be said of like prophecies upon which the legislature of this country is urged to undertake the most gigantic financial experiment which has been known in the history of the world?

EFFECT OF A SILVER STANDARD.

The adoption of the single silver standard, then, would place the dollar unit at once at the mercy of the silver-bullion market; and obligations now outstanding, incurred upon the gold basis, would be payable

in a depreciated silver dollar worth only what the world should think it to be worth at a given point of time.

Thus to depreciate our standard of payments is clearly partial repudiation and unqualifiedly dishonest and fraudulent.

The second section of the bill reported by the majority of the committee is a confession that the purpose of the bill is to place the United States upon a silver-monometallic standard. To those who are willing to accept a silver standard in this country, which must involve a degree of repudiation of existing obligations, there can be no answer made except that it is dishonest and fraudulent; and from such a moral standard there is no appeal save to the moral sense of the people.

WHO WILL SUFFER FROM A SILVER STANDARD?

Men speak lightly and thoughtlessly of the "creditor class." For every creditor there must be a debtor and for every debtor a creditor. If the industrial classes of this country are not bankrupt, but on the contrary have accumulated something from their work, it is safe to say that their accumulations have in large part been so invested that they stand as creditors within the meaning of those who assail the creditor class. In savings banks alone, in which the deposits are usually in small accounts, sixteen hundred millions are said to be deposited—more money than there is in active circulation in this country. Every workingman who is a depositor is a creditor of the bank. The volume of deposits in national banks and other banking institutions is likewise enormous and every depositor is a creditor of the bank and the bank belongs to the debtor class.

Of the deposits in savings banks in this country a thousand millions of dollars are said to be invested in mortgages. The mortgage creditors of the country are therefore to this extent the small depositors in savings banks who have trusted their scanty earnings to be invested by these institutions of savings.

To depreciate by 30 or 40 per cent the value of these securities would be to rob millions of our industrious citizens of their hard-earned savings.

Depreciate the standard of the dollar and every pensioner of the country, every holder of a policy of insurance, every widow and orphan enjoying the proceeds of trust funds, will by so much suffer from this fraudulent reduction of the standard of the country.

The revenues of the Government will be depreciated in like manner, and every dollar received in duties and other taxes will represent about two-thirds of the amount now fixed by law.

The effect of this repudiation upon future attempts to borrow money will be disastrous to the borrower. Money is loaned at rates which accord with the risk, and repudiation will raise the rates of interest and a fluctuating standard of value will burden the borrower until we have returned again to a stable and honest standard of payment.

Credit secures money, and credit is fixed by a willingness and ability to pay. Nor are the poor to gain any benefit from the degradation of our coin. The debtors of the country are they who have had credit upon which to secure advances. As a rule the poor are not in debt, and those who borrow have means of payment. The rich borrow the most, the poor the least. Repudiation will benefit the rich and the money dealers more than any other class. They can protect themselves.

INTERNATIONAL AGREEMENT NECESSARY.

The minority of this committee favor a bimetallic standard and heartily concur in the proposition that it is desirable that silver should again take the position in the world's monetary system which it occupied before the financial policy of the civilized world relegated it to a secondary place. But they recognize also the fact that the great mass of silver in the world, exceeding, as it does, the gold mass, and amounting to nearly $4,000,000,000, can not be moved in value by the fiat of a single nation which possesses and controls but one-seventh of the whole volume.

The minority maintain that such an experiment would result at once in a complete change of our monetary system, and the degradation of the standard of value upon which all money obligations have been incurred.

The minority are convinced that there is but one method by which silver can be restored to a first place in the monetary systems of the world, and that is by the consent of the nations which control those systems. An international conference should be requested by the United States and an earnest effort be made to secure this consent:

An international agreement for the reinstatement of silver in the monetary system of the world involves not alone the assent of a few nations to coin silver without limit, but also an understanding with the principal silver-using countries of the world that they will not by a change in monetary policy make the free-coining countries a dumping place for their own repudiated coin.

The minority believe that the monetary conditions of the world are such that the leading nations must soon feel, if they do not now feel, the necessity for maintaining the dignity of silver in order that it may continue to supply the increasing demands of the world for money. It can not be known that an international conference will fail until it has been attempted; nor would its failure be a sufficient argument why this Government should undertake single-handed to rescue the world from the consequences of its own deliberate acts.

THE BILL IS UNWARRANTABLE IN RISK AND WITHOUT ADVANTAGE.

Not even the advocates of free-silver coinage deny that this law is an experiment, new in the history of mankind and based upon conditions which have never existed. For such an experiment as is proposed nothing can be a justification which has not in it a certainty of a great reward to the people which undertakes the task. That reward is not in sight of anyone save of the owners of mines who desire to receive at the hands of the law $1.29¼ an ounce for a commodity which is sold in eager competition for two-thirds of that sum, though diligently produced at an average cost of 51 cents an ounce.

When we attempt to raise the price of the annual product of our mines more than 40 per cent we undertake to lift also the value of thirty-four hundred millions of dollars worth of foreign silver, in the value of which we have not the slightest interest. The coöperation of the foreign owners of the silver is not asked, and the risk of this experiment, six-sevenths of which is for the benefit of foreign countries, is to be thrown upon the shoulders of this Republic. The volume of our currency will not be increased, but diminished. The bill itself will drive our gold into the coffers of speculation, invite foreign holders of our securities to sell at any price to escape loss by repudiation, and

our whole monetary system will be thus disrupted. No possible gain to our people can be demonstrated.

The minority of the committee, therefore, in pursuance of these views, recommended that for the bill reported by the committee the following be substituted:

A BILL to provide for an international monetary conference.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the President is authorized to invite the governments of such countries as he may deem advisable to join the United States in a conference to be held at a time and place to be agreed upon, such conference to be called with a view of securing a permanence in the relative value of gold and silver at a common coinage ratio to be mutually agreed upon, through international agreements providing for the enlarged monetary use of silver and for giving to that metal equal mintage rights with gold.

SEC. 2. That the President shall, by and with the advice of the Senate, appoint three commissioners, who shall attend such conference on behalf of the United States, and shall report the doings thereof to the President, who shall transmit the same to Congress. Said commissioners shall receive the sum of five thousand dollars each and their reasonable expenses, including the compensation of a secretary and such other assistance as may be necessary, to be approved by the Secretary of State.

CHARLES TRACEY.
ABNER TAYLOR.
CHARLES W. STONE.
GEO. FRED. WILLIAMS.
M. N. JOHNSON.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 250.

NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS.

FEBRUARY 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. MITCHELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3867.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3867) concerning officers of the National Home for Disabled Volunteer Soldiers, beg leave to report as follows:

The act of Congress, approved March 21, 1866, provides that the officers of the National Home shall be appointed from the disabled officers who served in the Army of the United States in the war of the rebellion.

Under this law, worthy soldiers and capable men who did not rise above the ranks during the war are prevented from holding office under the Board of Managers of the National Home for Disabled Volunteer Soldiers. Your committee is of the opinion that, for the good of the Home, this discrimination ought no longer to exist. It believes that the Board of Managers should have the power to select its officers from among all those who served in the war, without regard to previous rank. This is what H. R. 3867 proposes to effect.

Your committee recommend that the bill be amended by striking out all of section 2, and that the bill as thus amended do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 251.

DRY DOCK NEAR ALGIERS, LA.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CUMMINGS, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany H. R. 5762.]

The Committee on Naval Affairs, to which was referred the bill (H. R. 2681) for the establishment of a dry dock on the Government reservation near Algiers, La., and making an appropriation therefor, has considered the same and submits the accompanying substitute for the said bill, with the recommendation that said substitute be passed:

In pursuance of an act of Congress approved September 7, 1888, authorizing the appointment by the President of a commission "to report as to the most desirable location on or near the coast of the Gulf of Mexico and the South Atlantic coast for navy-yards and dry docks," Commodore W. P. McCann, U. S. Navy; Capt. Robert Boyd, U. S. Navy; Lieut. Commander Willard H. Brownson, U. S. Navy, and Lieut. Duncan Kennedy, U. S. Navy, were appointed to constitute said commission; and after having visited all the points on the coast of the Gulf of Mexico and the South Atlantic coast which they deemed advisable for the proper execution of their duty, they submitted, November 19, 1889, a very exhaustive and able report, and made the following recommendations:

> After carefully weighing all the advantages and disadvantages of Algiers as a site for a naval station the commission is of the opinion that, while the spot is not an ideal one, no other place in the Gulf compares with it in the advantages offered, and that the advantages are so many and so great and outweigh the disadvantages to such an extent that the commission has no hesitation in recommending the location of a navy-yard and dry docks at the present Government reservation at Algiers, La.

Shortly after this report had been made the Secretary of the Navy, Hon. B. F. Tracy, appeared before the Committee on Naval Affairs and recommended that a dry dock be established at Algiers. A bill making an appropriation for the establishment of a dry dock at Algiers was thereupon reported from the Committee on Naval Affairs.

By virtue of a provision in the naval appropriation act approved June 30, 1890, another commission was appointed by the President "to select a suitable site, having due regard to commercial and naval interests, for a dry dock at some point on the shores of the Gulf of Mexico or the waters connected therewith."

The President appointed upon this commission Capt. Francis M. Bunce, U. S. Navy; Maj. H. C. Hasbrouck, Fourth Artillery, U. S. Army; Lieut. R. M. G. Brown, U. S. Navy, and Messrs. Sidney Perham and David T. Littler.

The commission was organized on December 5, 1890, and after visiting the various points which they deemed advisable in order to carry out intelligently the requirements of the order for their appointment, and having due regard for commercial and naval interests and the emergencies which might arise in the event of war, they submitted their report on March 9, 1891. The commission say they made a careful study of the commercial routes to and from the Gulf of Mexico, and searched for the best position for a naval defense of them and of its coasts. They learned from the Bureau of Yards and Docks of the Navy Department that—

In view of the increased size of the vessels now being constructed and contemplated, a dry dock must be at least 600 feet long, 97 feet wide at the top, 66 feet in the clear at the entrance, with a depth of at least 26 feet, and of sufficient stability to support a load of 15,000 tons.

Upon inquiry of the Chief of Ordnance of the Navy Department it was ascertained that—

The larger guns of a modern battle ship will range upwards of 8 miles at the extreme elevation permitted by the mounting, the ship being on an even keel, and by heeling the ship to increase the elevation this range could probably be increased to at least 10 miles, and, with the largest guns afloat, even to 12 miles.

Whence the commission concluded that the requisites for a dry dock were—

A clear channel to the sea of a depth of at least 26 feet, stability of foundation to support a load of 15,000 tons, and protection by a distance of 12 miles, or by an intervening elevation of the ground, from gun-fire from the sea.

After a careful study of the charts of the Gulf of Mexico and the waters connected therewith, the commission proceeded to visit Key West, Tampa, Pensacola, Mobile, Port Eads, New Orleans, Galveston, and Aransas Pass. They declare that everywhere the greatest interest was manifested in the work of the commission; that they were received by committees of citizens, and furnished with every facility to aid them in their investigations.

The report contains a clear statement of the advantages and disadvantages of seventeen different points on the Gulf of Mexico, and after a full examination the commission reached the conclusion that—

The South Pass of the Mississippi River affords the only entrance 26 feet deep to a port or harbor on the Gulf of Mexico or waters connected therewith far enough from the sea to be safe from gun-fire.

They quote the opinion of Gen. C. B. Comstock, colonel of engineers, U. S. Army, and president of the Mississippi River Commission, to the effect that "the channel at the South Pass jetties is permanent in the sense that it will be possible to maintain a channel there of at least 26 feet depth at low water in the river as long as the jetties are maintained to deep water and the damages from storms repaired," an opinion in which the commission, after careful examination, concur.

The commission report that—

New Orleans is the only port on the Gulf coast or the waters connected therewith where the three primary requisites for a dry dock are to be found. It is situated about 100 miles up the river. It is the largest city in the Gulf States. From the entrance of South Pass to the city a depth of more than 26 feet can be carried at all times. The soil of the river banks in its vicinity, at the surface light, is, from 2 to 4 feet below the surface, of clay or clay or sand, increasing in density and solidity with the depth of the boring or excavation made, insuring a foundation amply sufficient to support a load of 15,000 tons in the dock by the employment of the usual methods in its construction.

This port has other and great advantages as the site. Being the greatest center of population of the Gulf States, labor, skilled or otherwise, can be obtained at

short notice. Its foreign commerce is greater than that of all the other Gulf ports together, last year reaching 2,034,072 tons; all others, 1,997,892 tons. A fresh-water harbor, its water communication with the interior by the Mississippi and its tributaries is nowhere in the world equaled, and this is supplemented by six great railroad lines, which, with their connections, reach every part of the country. Defense of these by the whole power of the nation is assured. It is a military necessity. Fresh water for all uses is supplied by filtering the river water, by the rainfall, and by artesian wells. Epidemic diseases of foreign origin are prevented by a strict system of quarantine regulations, and the general health of the city is as good as that of any Gulf port. A supply of iron, coal, or other material required can always be had at short notice and at cheap rates.

We will add only one more quotation from the commission's report, the conclusion, in which they say, for the reasons already given—

The commission therefore select this as the most suitable site for a dry dock on the shores of the Gulf of Mexico or the waters connected therewith.

The commission say that the depth of the Government reservation near Algiers—2,880 feet—is ample for a dry dock, and if more land on the river front is needed it can be acquired adjoining the Government reservation.

The Secretary of the Navy, Hon. B. F. Tracy, in his communication forwarding the report of the commission to the President, says:

I approve of the selection made of a site for the dry dock at Algiers, on the right bank of the Mississippi River, in view of the conditions found by the commission to exist there. The naval reservation at this point is too limited in extent for the proper location and use of the dry dock, and it will be necessary to purchase additional lands adjoining.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 252.

RELIEF OF INHABITANTS OF FERRON, UTAH.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. STOUT, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 1080.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 1080) for the relief of the inhabitants of the town of Ferron, county of Emery, Territory of Utah, submit the following report:

The committee upon due investigation find that the present town site of Ferron is immediately contiguous to mountainous territory, with no possibility to extend their town only by obtaining section 16, contiguous to the present town site. Inasmuch as the lands in question are school lands, no adverse title can be urged. The bill contemplates that other lands be selected by the proper officer in another part of the Territory, in lieu thereof, for school purposes.

The committee recommend that the bill do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 253.

UNIVERSITY OF CALIFORNIA.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SEERLEY, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 3933.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 3933) to set apart a tract of land in the State of California for the use of the Lick Observatory of the astronomical department of the University of California, have had the same under consideration, and report the same back with the recommendation that it pass.

The committee find that the land described in said bill is of no value for timber or mineral, and moreover is not suitable for farming purposes, and from the following report of the General Land Office it will be seen that no valid entries appear of record on its tract book for any of said land:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 15, 1892.

SIR: I have the honor to acknowledge the receipt of a memorandum from you, herewith returned, as to the status of NW. ¼ sec. 3, E. ½ NW. ¼, and NW. ¼ SW. ¼ sec. 4, T. 7 S., R. 3 E., M. D. M. You are advised that no entry appears of record upon the tract books of this office for any of the above-described tracts.

In the entire T. 7 S., 3 E., 25 entries have been made embracing a total area of about 2,775 acres.

Very respectfully,

W. M. STONE,
Assistant Commissioner.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 254.

REBELLION WAR CLAIMS OF CALIFORNIA, OREGON, AND NEVADA.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 42.]

The Committee on War Claims, to whom was referred the bills (H. R. 42 and H. R. 54) to reimburse the States of California, Oregon, and Nevada for moneys by them expended in the suppression of the rebellion, report as follows:

The facts out of which these bills for relief arise are stated in House Report No. 2553, and in Senate Report No. 644, Fifty-first Congress, first session, also in House Report No. 3396 and in Senate Reports Nos. 1286 and 2014, Fiftieth Congress, first session.

Bills relating to the rebellion war claims of these States passed the Senate during the first session of the Fiftieth Congress and were favorably reported in the Senate during ths first session of the Fifty-first Congress, and were favorably reported from this committee during both the Fiftieth and the Fifty-first Congresses, but were not reached for consideration by the House during either of those two Congresses.

Sums of money shown by the reports of the Secretary of War to have been paid by said States in the suppression of the rebellion were included in the general deficiency appropriation bill as it passed the Senate during the second session of the Fifty-first Congress, for the purpose of paying the rebellion war claims of these three States, the amounts of which are the same as those now included in these bills, but said sums were omitted from said deficiency bill as it became a law.

Your committee now adopt the last report made to the House, June 25, 1890, on a similar bill, to wit, House Report 2553, Fifty-first Congress, first session, annexed hereto and made a part of this report.

These two bills are in all respects identical, but your committee, deeming it necessary to report upon only one thereof, wherefore now report back the bill (H. R. 42) without amendment and recommend its passage

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[House Report No. 2553, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 7430) to reimburse the States of California, Oregon, and Nevada for moneys by them expended in the suppression of the rebellion, report as follows:

The facts out of which this bill for relief arises will be found stated in Senate Report No. 644, from the Committee on Military Affairs of the present Congress, which report is hereto annexed and made part of this report. Your committee adopt the said report as their own, and report back the bill (H. R. 7430) with an amendment, to wit: Strike out lines 8 to 18, inclusive, and in lieu thereof insert as follows, to wit:

To the State of California, the sum of two million four hundred and fifty-one thousand three hundred and sixty-nine dollars and fifty-six cents.

To the State of Oregon, the sum of two hundred and twenty-four thousand five hundred and twenty-six dollars and fifty-three cents.

To the State of Nevada, the sum of four hundred and four thousand forty dollars and seventy cents, being the sums of money shown by the reports of the Secretary of War to have been paid by said States in the suppression of the rebellion.

When so amended, *your committee* recommend the passage of said bill.

Senate Report No. 644, Fifty-first Congress, first session.

IN THE SENATE OF THE UNITED STATES.

APRIL 10, 1890.—Ordered to be printed.

Mr. STEWART, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 2416.]

The Committee on Military Affairs, to whom was referred the bill (S. 2416) to re-imburse the States of California, Oregon, and Nevada for moneys by them expended in the suppression of the rebellion, having duly considered the same, respectfully report as follows:

The larger portions of the claims of these States are for extra pay and bounty paid by them during the war of the rebellion.

The circumstances under which the expenditures provided for in this bill were made by these States being exceptional, and their re-imbursement not being provided for by any existing law, general or special, prior to June 27, 1882, Senator Grover, of Oregon, on December 12, 1881, introduced Senate joint resolution No. 10, and Senator Fair, of Nevada, on December 13, 1881, introduced Senate joint resolution No. 13, providing for the equitable adjustment of these State war claims of Oregon and Nevada, which resolutions were referred to the Senate Committee on Military Affairs.

That committee, instead of reporting back said joint resolutions, reported back, May 12, 1882, in lieu thereof a substitute in the form of a bill to wit: S. 1673, Forty-seventh Congress, first session, providing for the payment of certain war claims, to wit, those only of Texas, Oregon, and Nevada, and of the Territories of Idaho and Washington, and which bill, after having been amended in the Senate so as to include the State war claims of Colorado, Nebraska, and California, and amended in the House so as to include the State war claims of Kansas, finally resulted in the passage of the act approved June 27, 1882. (22 U. S. Stats., 111.)

It was then no doubt the intention of Congress to equitably provide for the re-imbursement of all moneys which California, Oregon, and Nevada, and Nevada when a Territory, had actually expended during the war of the rebellion, on account of the several matters recited in S. bill 3420, Fiftieth Congress, first session. This bill (S. 1673, Forty-seventh Congress, first session) was accompanied by a report (S. No. 575, Forty-seventh Congress, first session) made by Senator Grover May 12, 1882, from which the following is quoted; and which renders said intention of Congress quite evident.

OREGON.

It appears by the report of the Adjutant-General U. S. Army, of April 3, 1882, that one regiment of calvary, one regiment of infantry, and one independent company of cavalry were raised in the State of Oregon during the late war of the rebellion, and that the expenses incident thereto have never been re-imbursed said State by the United States: and that the claims therefor have never been heretofore presented by said State for audit and payment by the United States, as per report of the Secretary of War of April 15, 1882, and of the Third Auditor of the Treasury of April 8, 1882. Under section 3489 of the Revised Statutes, the claim for expenditures so incurred by said State can not now be presented for audit and payment without legislation by Congress. In addition thereto there are some unadjusted claims of said State growing out of the Bannock and Umatilla Indian hostilities therein in 1877 and 1878, evidenced by a communication of the Secretary of War of date last aforesaid, and some unadjusted balances pertaining to the Modoc war, not presented for audit to General James A. Hardie, approximating the sum of $5,000.

NEVADA.

It appears by the report of the Adjutant-General, U. S. Army, of February 25, 1882, that one regiment of cavalry and one battalion of infantry were raised in the late Territory of Nevada during the late war of the rebellion, and that the expenses of raising, organizing, and placing in the field said forces were never paid by said Territory, but were assumed and paid by the State of Nevada, and that none of said expenses so incurred by said Territory, and assumed and paid by said State, have ever been re-imbursed the State of Nevada by the United States, and that no claims therefor have ever been heretofore presented by either said Territory or said State for audit and payment by the United States. Under section 3489 of the Revised Statutes, hereinbefore referred to, the payment of these claims is barred by limitation.

These forces were raised to guard the overland mail route and emigrant road to California, east of Carson City, and to do other military service in Nevada, and were called out by the governor of the late Territory of Nevada, upon requisitions therefor by the commanding general of the Department of the Pacific, and under authority of the War Department, as appears by copies of official correspondence furnished to your committee by the Secretary of War and the general commanding the Division of the Pacific. * * *

The Senate Committee on Military Affairs did not at that time make any report in relation to the State war claims of the State of California, but when this substitute bill (S. 1673, Forty-seventh Congress, first session) reported from that committee was under consideration in the Senate, Senator Miller, of California, called attention to the fact that California had war claims unprovided for, and on his motion this bill (S. 1673, Forty-seventh Congress, first session) was amended in the Senate so as to include these State war claims of the State of California. It is alleged by California, Oregon, and Nevada that this act of June 27, 1882, which they believed was intended by Congress to be an act for their relief and benefit and an equitable statute to be liberally construed, has been found to be an act "so well and carefully and closely guarded by restrictions" that, when construed by those who have been called upon to execute it, has proven to be completely inoperative as an equitable relief measure, so much so as to amount to a practical denial of justice so far as the present State war claims of these States now provided for in this bill were or are concerned.

PRESENTATION BY CALIFORNIA, OREGON, AND NEVADA OF THEIR STATE WAR CLAIMS TO THE UNITED STATES.

The aforesaid bill (S. 1673, Forty-seventh Congress, first session) having become a law June 27, 1882, the State war claims of California, Oregon, and Nevada were thereafter duly transmitted for presentation to the proper authorities of the United States, those of Oregon by Hon. R. P. Earhart, and Hon. George W. McBride, secretary of state for Oregon and *ex officio* adjutant-general. Those for Nevada by Hon. J. F. Hallock, controller of Nevada. Those for California by Hon. John

Dunn, controller, assisted by his deputy, Hon. M. J. O'Reilly, and by Hon. D. I. Oullahan and Hon. Adam Herold, State treasurers, and General George B. Crosby, adjutant-general of California, aided therein by Hon. George Stoneman, Governor of California, and his private secretary, Hon. W. W. Moreland, and by Hon. W. C. Hendricks, secretary, and General H. B. Davidson, assistant secretary of state of California.

These State war claims of these three States, accompanied with proper original vouchers and evidence in support thereof, in each case were thereafter duly delivered by the aforesaid State authorities of California, Oregon, and Nevada, or by those duly authorized therein, to Capt. John Mullan, the duly appointed agent and authorized special counsel for each of said three States, by whom they were put in abstracts and proper shape and thereafter submitted by him to the Secretary of the Treasury and Secretary of War, as provided for in said act of Congress approved June 27, 1882.

DELAY OF THE UNITED STATES IN THE EXAMINATION OF CALIFORNIA, OREGON, AND NEVADA STATE WAR CLAIMS AND THE CAUSES THEREOF.

These State war claims, with said vouchers and evidence, so originally presented to the Secretary of the Treasury and Secretary of War for examination, remained of record in the Treasury and War Departments unacted on up to and after August 4, 1886, because, as was stated to Congress by Hon. Robert T. Lincoln, the Secretary of War, required the aid of at least three army officers to assist his Department in making a proper examination thereof, and he requested Congress to make an appropriation of $25,000 to defray the expenses of such examination of these State and Territorial war claims presented and others to be presented under said act of June 27, 1882. Congress delayed action upon these repeated requests of the Secretary of War until August 4, 1886, on which date acts were passed by Congress providing for a board of three army officers, as asked for, and also appropriating $10,000 to defray the expenses of a full and exhaustive examination (see vol. 24. Stats. at Large, pages 217 and 249) of these State war claims.

SECRETARY LINCOLN'S CONSTRUCTION OF THIS ACT OF JUNE 27, 1882, FOR THE RELIEF OF NEVADA, ETC.

Prior to any action by the War Department on these State war claims of the States of California, Oregon, and Nevada, and prior to any action by Congress on said request of the Secretary of War for a board of army officers to aid him to examine said claims, a bill, S. 657, Forty-eighth Congress, first session, was introduced in Congress by Senator Jones, of Nevada, providing for the payment of certain individual claims of citizens of Nevada on account of Indian hostilities in Nevada in 1860, and was referred by the Senate Committee on Military Affairs to the Secretary of War and of the Treasury for reports, and upon which the Secretary of War reported as follows:

WAR DEPARTMENT,
Washington City, January 26, 1884.

SIR: In response to so much of your communication of the 22d ultimo as requests information concerning Senate bill 657, "to authorize the Secretary of the Treasury to adjust and settle the expenses of Indian wars in Nevada," I have the honor to invite your attention to the following report of the Third Auditor of the Treasury, to whom your request was duly referred:

"The State of Nevada has filed in the office abstracts and vouchers for expenses in-

curred on account of raising volunteers for the United States to aid in suppressing the late rebellion, amounting to $349,697.49, and for expenses on account of her militia in the 'White Pine Indian war' of 1875, $17,650.98. Also, expenses of her militia in the 'Elko Indian war' of 1878, amounting to $4,654.64, presented under act of Congress approved June 27, 1882 (22 Statutes 111, 112).

"These abstracts and vouchers will be sent to your Department for examination and report as soon as they can be stamped, as that statute requires a report from the Secretary of War as to the necessity and reasonableness of the expenses incurred. This statute is deemed sufficiently broad enough to embrace all proper claims of said State and Territory of Nevada."

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. S. B. MAXEY,
Of Committee on Military Affairs, United States Senate.

In accordance with this report and opinion of the Secretary of War the Senate Committee on Military Affairs reported back this bill so referred to (S. 657, Forty-eighth Congress, first session), and asked that it be indefinitely postponed, and because of the explanation made to the Senate by said committee, and based upon said report and construction of said act and said opinion of the then Secretary of War, Hon. Robert T. Lincoln, as follows, to wit:

It will be observed that it is deemed by the War Department that the act approved June 27, 1882, is sufficiently broad to embrace all proper claims of Nevada, whether as State or Territory.

For convenience of reference the above act accompanies this report, and an examination thereof, and of the construction thereon, satisfies the committee that no additional legislation is necessary.

The State of Kansas presented her State war claim to Secretary Lincoln under this very act, which claim was by him examined, audited, and allowed for almost exactly the sum that Kansas had actually expended for the use and benefit of the United States, and all of which allowance has since been paid to Kansas by the United States, and aggregating the sum of $322,308.13 (23 U. S. Stats., 474) as allowed and paid to said State by the United States. So, too, the State of Nebraska under similar circumstances was allowed and paid the sum of $18,081.23 under this same act of June 27, 1882.

AFTER OVER FOUR YEARS' DELAY, SUBSEQUENT TO THE PASSAGE OF THE ACT OF JUNE 27, 1882, THE UNITED STATES TAKES UP NEVADA'S STATE WAR CLAIM FOR EXAMINATION, WHEN THE VERY FIRST QUESTION RAISED IS ONE OF JURISDICTION, AND WHICH IS DECIDED AGAINST NEVADA.

After the passage of said act of August 4, 1886, the War Department detailed a board of three Army officers under Special Orders No. 232, dated October 6, 1886, to proceed to examine the claims provided for under said act of June 27, 1882, and in the manner contemplated in said act. The State war claims of the State of Nevada were the first examined by said board. This board being in doubt whether, under the terms of said act of June 27, 1882, they could allow a re-imbursement to Nevada of the amount of money by her expended for interest and extra pay to her troops while in the military service of the United States, duly referred these two questions to the Secretary of War for his decision. On February 8, 1887, after argument was submitted to said Secretary in support of these two elements of Nevada's State war claims against the United States, that officer decided "that, after a careful consideration of the subject, he was of opinion that neither the extra pay nor the interest can, under the provisions of the act, be allowed," meaning the act of June 27, 1882, and refused the same, as appears from the correspondence following, to wit:

DECISION OF THE SECRETARY OF WAR DISALLOWING THE STATE WAR CLAIM OF NEVADA FOR INTEREST AND EXTRA PAY TO NEVADA VOLUNTEERS.

WAR DEPARTMENT,
Washington City, February 8, 1887.

SIR: The Department has received your communications of December 31, 1886, and January 28, 1887, submitting arguments in the claim of the State of Nevada, under the act of June 27, 1882, for re-imbursement of amounts paid by the State for "extra pay" and for interest. Also, your communication of 2d instant, inclosing a resolution of the senate and assembly of Nevada, requesting favorable and early action on said claim.

In reply, I have the honor to inform you that after a careful consideration of the subject I am of opinion that neither the extra pay nor the interest can, under the provisions of the act, be allowed.

Very respectfully,

WILLIAM C. ENDICOTT,
Secretary of War.

JOHN MULLAN, Esq.,
Agent of the State of Nevada, 1101 *G street, N. W., City.*

It therefore fully appears that on January 26, 1884, Secretary Lincoln, when construing said act of June 27, 1882, was of opinion that it was sufficiently broad to embrace all proper war claims of the State of Nevada; whereupon the Senate Committee on Military Affairs, in consequence thereof, reported to the Senate that said committee was satisfied that no additional legislation was necessary in regard thereto, while Secretary Endicott, on February 8, 1887, construing this same act and deciding thereunder, held that these war claims of the States and Territories named in said act for expenditure for interest and extra pay to their troops while in the service of the United States could not be allowed by him under said act.

This decision of Secretary Endicott in the case of the State of Nevada, to the effect that "under the provisions of the act of June 27, 1882, he had no jurisdiction to allow interest paid by that State upon the principal by her expended, nor the extra pay made by her to the State troops while they were in the service of the United States," became practically a decision in the case of the State war claims of the State of California, and effectually disposed of these two similar items in the war claims of that State. In addition thereto the Secretary of War, Mr. Endicott, on November 8, 1887, upon a statement made to him by the chief of said board of war claims examiners, also decided that he had no jurisdiction to adjudicate Oregon's State war claim, which claim also contained similar items for interest and extra pay, and thus Secretary Endicott's aforesaid decision in the Nevada case also practically disposed of these two similar items in Oregon's claim so far as his Department was concerned.

In consequence, therefore, of these conflicting decisions of two Secretaries of War upon one and the same act of June 27, 1882, rendering it absolutely nugatory so far as the adjustment of these State war claims of these three States were concerned, made and makes additional remedial legislation by Congress absolutely necessary in order to deal equitably with these States and their claims for re-imbursement of money by them expended in good faith for the common defense during a period of war and at the instance of the authorities of the United States.

The Senate Committee on Military Affairs, therefore, during the Fiftieth Congress, first session, had first under consideration a bill (S. 2918) "to re-imburse the State of Nevada for moneys expended on obligations incurred by said State and the Territory of Nevada, and afterwards assumed and paid by said State, in the suppression of the war of the

rebellion, and for guarding the overland mail and emigrant route," and a majority of the committee made a favorable report thereon. (S. R. No. 1286, Fiftieth Congress, first session.)

Your committee thereafter, having under due consideration similar claims for California and Oregon, reported a general bill, to wit, S. 3420, Fiftieth Congress, first session, accompanied by Senate Report No. 2014, Fiftieth Congress, first session, made August 10, 1888, for the investigation of all the war claims of California, Oregon, and Nevada substantially in the same language as recited in the resolution afterwards passed by the Senate and hereinafter set forth. A full statement of these war claims was made and submitted to your committee, but not reported to the Senate at the same time that said resolution for investigation was approved by your committee. That statement is printed in the report of the war claims examiners on the claims of the State of California, commencing after the report and after page 95 of Ex. Doc. No. 11, Fifty-first Congress, first session, and also in Senate Ex. Docs. Nos. 10 and 17, Fifty-first Congress, first session. Senate Report No. 2014, Fiftieth Congress, first session, does not seem to appear in said reports, Senate Ex. Docs. 10. 11, 17, although said bill S. 3420 passed the Senate and was favorably reported in the House September 4, 1888, in House Report No. 3396, Fiftieth Congress, first session, as follows, to wit:

Mr. Stone, of Kentucky, from the Committee on War Claims, submitted the following report (to accompany bill S. 3420).

The Committee on War Claims, to whom was referred the bill (S. 3420) authorizing the Secretary of War to ascertain what amount of money has been expended by the States of California, Oregon, and Nevada for military purposes in aid of the Government of the United States during the war of the rebellion, report as follows:

The facts out of which this bill for relief arises will be found stated in Senate report from the Committee on Military Affairs of the present Congress, which report is hereto annexed and made a part of this report. Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[Senate Report No. 2014, Fiftieth Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 3420) authorizing the Secretary of War to ascertain what amount of money has been expended by the States of California, Oregon, and Nevada for military purposes in aid of the Government of the United States during the war of the rebellion, having considered the same, report as follows:

During the war of the rebellion the States of California, Oregon, and Nevada were separated from the Atlantic States by over 1,500 miles of almost uninhabited country. Much apprehension was felt on account of the exposed condition of those distant States, and the Government called upon them to assist in guarding the overland mail and emigrant routes, in preventing Indian outbreaks in the States, and to aid the United States in various ways during the war of the rebellion.

At the beginning of the war Nevada was a Territory, and was admitted into the Union as a State in 1864; but for the purposes of this report Nevada will hereafter be referred to as a State.

These States complied promptly with all the requirements of the General Government, and volunteered all the aid in their power to assist the United States. On the Pacific coast during this time, and particularly in Nevada, prices of all commodities (and also the price of labor) were exceedingly high, and as a mining excitement existed in these States it became necessary to extend aid in many ways in organizing, arming, equipping, furnishing, and maintaining volunteer soldiers and militia beyond the amount required for those purposes in the Eastern States. California, Oregon, and Nevada passed numerous acts to organize and equip soldiers in compliance with the requests of the Government, for which they were compelled to expend large sums of money. They were also compelled to borrow money, upon which a large amount of interest has been paid.

An examination of all the facts connected with these claims, a statement of accounts showing for what the money was paid and under what authority, involves too

much detail for a committee of Congress to investigate. They therefore recommend the passage of the accompanying bill, which simply provides for an examination and report upon the facts of the claims of each of these States, so as to enable Congress to take such action as may be just and proper in the premises.

The bill does not commit Congress to the payment of these claims in advance, nor a settlement upon any particular theory. It does not commit Congress in advance to re-imburse these States for bounty or extra money expended by them in furnishing troops to assist the United States in suppressing the war of the rebellion, nor to the payment of interest on moneys borrowed. It simply provides for an ascertainment of such facts so as to enable Congress to legislate intelligently.

A bill for the payment of the claims of Nevada has already been reported by a majority of your committee and is now on the Calendar of the Senate. The report in that case is very elaborate, and some members of your committee desire, before action is taken on it, a more authoritative statement of the case, which will be obtained by the examination now proposed. The claims of California and Oregon are of a similar character to those of Nevada. All these States were differently situated during the rebellion from the other States of the Union, and your committee therefore thought proper to have the same investigation and report made in each case and have them all incorporated in one bill. The writer of this report has prepared an elaborate statement of the claims of California and Oregon, which has been printed by order of the Senate for the use of the committee.

The report on the Nevada claim, known as Senate Report No. 1286, and dated May 14, 188-, and the statement with regard to the claims of California and Oregon will assist the War Department in collecting the laws and orders under which these States expended the money in question, and your committee desire to call the attention of the Secretary of War to these documents in case this bill should become a law.

The laws that have been passed for the investigation of claims of other States are not applicable to the peculiar conditions of these States during the war of the rebellion, and there is no authority under them for the ascertainment of the necessary facts to enable Congress to determine what allowances should be made under the peculiar circumstances which surrounded these States at the time in question.

Your committee report the bill back with an amendment, and when so amended recommend that it do pass.

No action having been taken in the House on said Senate bill 3420 after said House Report No. 3396 was made, and it being deemed important that Congress at its present session should have before it in an official form all the data, facts, and the results of a full, exhaustive, and official examination of these State war claims to be made by the War Department, which then had and now has official custody of all these claims, and of all evidence relating thereto filed in support thereof, and in order that the Secretary of War should have the full benefit and aid of said Board of Army Officers, which was then still in session at Washington, D. C., and which Board Congress had specially created in said act of August 4, 1886 (24 U. S. Stats., 217), to aid the Secretary of War to make a full, exhaustive, and official examination of these State war claims of these three States, so that the Secretary of War could officially and intelligently report upon the same to Congress, or to either branch thereof, for its information and action, as contemplated in said Senate bill 3420, Fiftieth Congress, first session, the Senate therefore, on the 27th of February, 1889, passed the following resolution:

Resolved, That the Secretary of War, through the board of war claims examiners, appointed under section 2 of the act of Congress entitled "An act for the benefit of the States of Texas, Colorado, Oregon, Nebraska, California, Kansas, and Nevada, and the Territories of Washington and Idaho, and Nevada, when a Territory," approved August 4, 1886, be, and he is hereby, authorized and directed to examine all accounts, papers, and evidence which heretofore have been, or which hereafter may be, submitted to him in support of the war claims of the States of California, Oregon, and Nevada, and Nevada when a Territory, growing out of the war of the rebellion, and in suppressing Indian hostilities and disturbances during the war of the rebellion, and in guarding the overland mail and emigrant routes during and subsequent to the war of the rebellion, and to ascertain and state what amount of money each of said States, and Nevada when a Territory, actually expended, and what obligations they incurred for the purposes aforesaid, whether such expenditures were made or obligations incurred in actual warfare or in recruiting, enlisting, enrolling, organizing, arming, equipping, supplying, clothing, subsisting, drilling, furnishing, transporting,

and paying their volunteers, militia, and home guards, and for bounty, extra pay, and relief paid to their volunteers, militia, and home guards, and in preparing their volunteers, militia, and home guards in camp and field to perform military service for the United States.

The Secretary of War is also directed to ascertain what amount of interest has been paid by each of said States, and Nevada when a Territory, on obligations incurred for purposes above enumerated. The Secretary of War shall report to Congress the amount of money which may be thus ascertained to have been actually paid by each of said States, and Nevada when a Territory, on account of the matters above enumerated, and also the amount of interest actually paid or assumed by each of said States, and Nevada when a Territory, on moneys borrowed for the purposes above enumerated. And the Secretary of War shall also report the circumstances and exigencies under which, and the authority by which, such expenditures were made, and what payments have been made on account thereof by the United States.

In response to this resolution the honorable Secretary of War, having theretofore fully completed, with the aid of said Army Board, a thorough, and exhaustive official examination of all these war claims of said three States, transmitted in December, 1889, his report to the Senate in each of the cases of California, Oregon, and Nevada, as required by said resolution, and which reports are as follows, to wit: Senate Ex. Docs. Nos. 10, 11, 17, Fifty-first Congress, first session. These reports and the exhibits attached thereto, respectively, are in great detail, and contain a very full history of the important part taken by the Pacific States and Territories during the rebellion in defense of the Union. These reports are in full compliance with said Senate resolution, showing the actual amount of money expended by each of said States, and of Nevada when a Territory, during the war of the rebellion in aid of the United States, and the authority, State, Territorial, and national, and also the special circumstances and exigencies under which the expenditures reported upon by said Secretary and said board therein respectively were made. The following tables, taken from the reports of said war claims examiners, show the several sums of money actually expended and paid out as principal and interest by each of said States:

CALIFORNIA.

[Senate Ex. Doc. No. 11, Fifty-first Congress, first session, page 27.]

Amount expended in recruiting California volunteers (Abstract F)	$24,260.00
Amount expended in payment of adjutant-general, etc. (Abstract H)	38,083.17
Amount expended in organizing volunteers (Abstract M)	5,639.34
Amount expended in pay of volunteer officers (Abstract N)	23,277.34
Amount expended in extra pay to enlisted men of California volunteers (Abstract P)	1,459,270.21
Amount expended in bounty to enlisted men (Abstract Q)	900,839.50
Total expense of volunteers, and not repaid the State by the United States	2,451,369.56
Amount expended in payment of interest on moneys borrowed to carry out the provisions of the acts of April 27, 1863, and April 4, 1864	1,500,545.86
Aggregate expenses incurred on account of volunteers, principal and interest	3,951,915.42
Amount expended on account of militia	468,976.54
Grand total of expenses on account of volunteers and militia	4,420,891.96

OREGON.

[Senate Ex. Doc. No. 17, Fifty-first Congress, first session, page 20.]

Amount expended in payment of adjutant-general, etc. (Abstract E)	$3,973.49
Amount expended in extra pay to enlisted men (Abstract G)	90,476.32
Amount expended in bounty to enlisted men (Abstract H)	129,241.02
Amount expended for advertising calls for redemption of bonds (Abstract K)	835.70

Amount expended in payment of interest on moneys borrowed to carry out the provisions of the acts of October 24, 1864 (Abstract L)	$110,626.35
Total amount expended on account of volunteers and not repaid State by United States	335,152.88
Amount expended on account of militia	21,118.73
Aggregate expenses incurred on account of militia and volunteers	356,271.61

NEVADA.

[Senate Ex. Doc. No. 10, Fifty-first Congress, first session, page 8.]

Amount actually paid out on account of volunteers raised in Nevada	$118,667.49
Amount of interest paid on moneys borrowed and so expended	289,695.59
Amount of liabilities assumed on account of volunteers raised in Nevada	1,133.92
Amount of interest paid on liabilities assumed	3,113.31
Total amount expended or assumed	412,600.31
Amount already paid to Nevada by the United States upon an examination under the provisions of the act of June 27, 1882	8,559.61
Amount expended or assumed and not repaid by the United States	404,040.70

INTEREST.

In said Ex. Doc. No. 10, Fifty-first Congress, first session, page 15, it is declared that—

Interest paid by California, Oregon, and Nevada is in reality, in justice, in reason, and in law a proper part of the debt due them by the United States, the payment of which, together with that of the principal, is necessary to a complete indemnity.

The United States has generally refused to pay interest on claims against the Government. This rule sometimes works great hardship and wrong; but the inconveniences that might arise from a departure from it may be very great. There is one exception, however, to this rule which has been uniformly recognized and acted upon; that is, when a State has claims against the Government for expenditures made for the United States, and a part of such claims consists of interest paid out or assumed by the State, the interest so paid out or assumed has been treated eventually so far as the adjustment thereof was concerned as if it had been originally presented as a part of the principal, although Congress has always treated the interest as a separate, independent, and distinct claim apart from the principal, which sometimes is adjusted when adjusting the principal, depending no doubt in part upon the special circumstances of the cases presented to Congress and at other times adjusted after the principal is paid, but always adjusting it some time in all proper cases. The rule is well stated in the Decisions of the Second Comptroller for 1869, page 137, as follows:

Interest can in no case be allowed by the accounting officers upon claims against the Government, either in favor of a State or an individual. But in cases where the claimant has been compelled to pay interest for the benefit of the Government it then becomes a part of the principal of the claim, and as such is allowable.

Such is the case of a State which has been obliged to raise money upon interest for the suppression of hostilities against which the United States should protect her.

In such cases the amount of interest actually and necessarily paid will be allowed, without reference to the rate of it.

There are many cases to sustain this ruling of the Second Comptroller, of which the following are cited as precedents where Congress first authorized the adjustment and payment of the principal and then subsequently adjusted and thereafter paid the interest:

1. By an act approved April 2, 1830, the Secretary of the Treasury was authorized to cause to be paid to the mayor and city council of Baltimore the sum of $7,434.53 in full for their claim against the United States for money borrowed and expended by

them in defense of said city in the war of 1812, and by the second section of said act the Secretary of the Treasury was directed to cause to be paid interest on said sum according to the provisions and regulations of "the act to authorize payment of interest due the city of Baltimore," approved May 20, 1826.

2. By an act approved May 31, 1830, the proper accounting officers of the Treasury, under the superintendence of the Secretary of War, were authorized and directed to audit and settle the claims of the State of Massachusetts against the United States for services of her militia during the war of 1812, in the following cases:

(1) Where the militia of said State were called out to repel actual invasion, or under a well-founded apprehension of invasion, provided their numbers were not in undue proportion to the exigency.

(2) Where they were called out by the authority of the State and afterwards recognized by the Federal Government.

(3) Where they were called out by and served under the requisition of the President of the United States or of any officer thereof.

3. By a joint resolution approved May 14, 1836, entitled "A resolution to authorize the Secretary of War to receive additional evidence in support of claims of Massachusetts and other States of the United States for disbursements, services," etc., during the war of 1812, the Secretary was authorized, in preparing his report pursuant to the resolution of House of Representatives agreed to the 24th of February, 1832, without regard to existing rules and requirements to receive such evidence as was on file, and any further proofs which might be offered tending to establish the validity of the claims of Massachusetts upon the United States, or any part thereof, for services, disbursements, and expenditures during the war with Great Britain; and in all cases where such evidence should, in his judgment, prove the truth of the items of the claim, or any part thereof, to act on the same in like manner as if the proof consisted of such vouchers and evidence as was required by existing rules and regulations touching the allowance of such claims; and it was provided that in the settlement of claims of other States upon the United States for services, disbursements, and expenditures during the war with Great Britain, the same kind of evidence, vouchers, and proof should be received as therein provided for in relation to the claim of Massachusetts.

4. By the sixth section of an act approved March 31, 1837, an appropriation was made for paying the claims of the State of Connecticut for the services of her militia during the war of 1812, to be audited and settled by the proper accounting officers of the Treasury under the superintendence of the Secretary of War in the following cases:

(1) Where the militia of said State were called out to repel actual invasion or under a well-founded apprehension of invasion, provided their numbers were not in undue proportion to the exigency.

(2) Where they were called out by the authorities of the State and afterwards recognized by the Federal Government, and

(3) Where they were called out and served under the requisition of the President of the United States or of any officer thereof.

5. By an act approved August 14, 1848, the proper accounting officers of the Treasury were directed to settle the claims for one month's service of the officers and soldiers of the Fourth Regiment in the Second Brigade of the Third Division of the militia of the State of Vermont, who served at the battle of Plattsburgh on the 11th of September, 1814, for their military services on that occasion.

6. By act approved March 3, 1853, making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1854, an appropriation of $10,334.31 was made for arrearages of pay, subsistence, and clothing due to Capt. Richard McRae's Company of Virginia Volunteers, which served in the war with Great Britain in 1812–'13 to be paid to the officers and soldiers of said company or their legal representatives, under the order of the Secretary of War, upon the production of proof as to the identity of said officers and soldiers, and that they have not been paid.

7. By an act approved August 31, 1852 (Army appropriation), the Secretary of War was required to pay to the State of South Carolina such sums of money as were paid by said State in 1838, 1839, and 1840 for services, losses, and damages sustained by her volunteers in the Florida war of 1836, 1837, and 1838, while in the service of the United States, and on their return from said service, as were ascertained and allowed by the board of commissioners appointed for that purpose by the act of the legislature of said State in 1837, with the proviso that no interest should be allowed upon moneys paid to the State of South Carolina under the provisions of said act. And it was by said act further provided that in the settlement of the claims of the State of Georgia, under the act of August 11, 1842, providing for the settlement of the claims of that State for the service of her militia, which had theretofore been suspended or disallowed, the accounting officers of the Treasury Department should allow and pay, upon proof that the State had allowed and paid the same, all accounts for forage, subsistence, hospital stores, medical service, and transportation which had not there

tofore been allowed by the United States. And it was further provided by said act that in the adjustment of the accounts of the State of Maine, under the act of June 13, 1842, the proper accounting officers of the Treasury should include and allow the claims which had theretofore been presented under said act, provided it should be satisfactorily shown that said claims had been actually allowed and paid by said State.

8. By an act approved March 3, 1853, second section, the proper accounting officers of the Treasury Department were authorized to settle the claims of the State of Florida for services of her troops under the act of February 27, 1851, by the provision stated for the settlement of the claims of the State of Georgia for like services, under the act approved August 31, 1851 (Army appropriation bill).

9. By the eighth section of an act approved March 3, 1853, the Secretary of the Treasury was directed to pay to the State of Georgia her claims remaining unpaid for moneys paid by the State in suppressing hostilities of the Cherokee, Creek, and Seminole Indians in the year 1835 and since, upon proof that the same was paid by the State, and that the provisions of the act relative to the settlement of the claims of Georgia for military service, approved March 3, 1851, should be extended to payments under said act.

The Secretary of the Treasury was also by said act required to pay the State of Alabama, under the provisions of the acts of Congress of August 16, 1842, and January 26, 1849, the balance due said State, growing out of the Creek Indian hostilities of 1836 and 1837; and by the twelfth section of said act it was provided that in the adjustment of the accounts of the State of Virginia under the twelfth section of the act of August 31, 1852, the Secretary of War should follow the provisions of the act of June 2, 1848, providing for refunding to the several States the amounts expended by them in raising regiments of volunteers for the Mexican war.

10. By an act approved January 26, 1849, the Secretary of War was directed to pay interest upon the advances made by the State of Alabama for the use of the United States Government in the suppression of hostilities by the Creek Indians in 1836 and 1837, at the rate of 6 per cent. per annum from the time of the advances until the principal of the same was paid by the United States to the State. And in ascertaining the amount of interest it was provided that interest should not be computed on any sum which Alabama had not expended for the use and benefit of the United States, as evidenced by the amount refunded to the State of Alabama by the United States, and that no interest should be paid on any sum on which the State of Alabama did not either pay or lose interest as aforesaid.

11. By an act approved March 3, 1851, the Secretary of War was authorized to allow to the State of Georgia for advances made to the United States for the suppression of hostilities of the Creek, Seminole, and Cherokee Indians in the years 1835, 1836, 1837, and 1838, with interest at the rate of 6 per cent. per annum on all sums allowed and paid to the State of Georgia and that might thereafter be allowed and paid for any moneys advanced by the State for the purposes aforesaid, from the date of such advances until the principal sums were or might be paid by the United States, with the proviso that no interest should be paid on any sum on which Georgia did not either pay or lose interest.

12. By an act passed the same day as the above act, the proper accounting officers of the Treasury were directed to settle the claim of the State of Maine against the United States, being for interest on money borrowed and actually expended by her for the protection of the northeastern frontier of said State during the years 1839 1840, and 1841, the amount of such interest to be ascertained under the following rules:

"(1) Interest not to be computed on any sum not expended by the State for the use and benefit of the United States, as evidenced by the amount refunded or paid to the State by the United States.

"(2) No interest to be paid on any sum on which the State did not either pay or lose interest."

13. By act approved July 21, 1852, making appropriations to supply deficiencies in the appropriations for the year ending June 30, 1852, the sum of $80,741 was appropriated for pay of five companies of Texas mounted volunteers.

14. By act approved March 3, 1859, for the purpose of executing the resolution of May 14, 1836, the Secretary of the Treasury was directed to pay to Massachusetts $227,176.48, reported to be due said State by Secretary of War J. R. Poinsett, in report dated December 23, 1837, made to the House of Representatives December 27, 1837, and it was provided that in lieu of payment in money the Secretary of the Treasury might, at his discretion, issue to said State United States stock bearing 5 per cent. per annum, and redeemable at the end of ten years, or sooner, at the pleasure of the President.

15. By act approved March 3, 1825, the accounting officers of the Treasury Department were authorized and directed to settle the claim of the State of Virginia against the United States for interest upon loans on moneys borrowed and actually expended by her for the use and benefit of the United States during the war of 1812.

16. By this act it was provided that, in ascertaining the amount of interest, as aforesaid, due to the State of Virginia, the following rules should be understood as applicable to and governing the case, to wit: First, that interest should not be computed on any sum which Virginia had not expended for the use and benefit of the United States, as evidenced by the amount refunded or repaid to Virginia by the United States. Second, that no interest should be paid on any sum on which she had not paid interest. Third, that when the principal, or any part of it, had been paid, or refunded by the United States, or money placed in the hands of Virginia for that purpose, the interest on the sum or sums so paid or refunded should cease, and not be considered as chargeable to the United States any longer than up to the repayment, as aforesaid.

The mode of computing interest provided by the above act appears to have been satisfactory at the time to all the States, and their claims against the General Government were authorized to be adjusted, and were adjusted under the same rules for computing interest.

17. By an act approved May 13, 1826, entitled "An act authorizing the payment of interest due to the State of Maryland," the accounting officers of the Treasury Department were authorized and directed to liquidate and settle the claim of the State of Maryland against the United States, for interest upon loans on moneys borrowed and actually expended by her for the use and benefit of the United States, during the late war with Great Britain, and the same rules for computing the interest was provided by the act as in the case of the State of Virginia.

18. By an act approved May 20, 1826, entitled "An act authorizing the payment of interest due to the State of Delaware," the accounting officers of the Treasury Department were authorized and directed to take similar action in regard to the settlement of the claim of the State of Delaware against the United States as that directed to be taken in the case of the claim of Maryland, and to be governed by the same rules.

19. By act approved May 20, 1826, the proper accounting officers of the Treasury Department were directed to settle the claim of the city of Baltimore against the United States, for interest on money borrowed and actually expended by the city in its defense during the war of 1812; and the act further provided that the amount due should be ascertained under rules which were the same as those provided by the foregoing act for the adjustment of the accounts in the cases of Virginia, Maryland, and Delaware.

20. By an act approved May 22, 1826, entitled "An act authorizing the payment of interest due to the State of New York," the accounting officers of the Treasury Department were authorized and directed to take similar action and to be governed by the same rules as in the cases of Virginia, Maryland, and Delaware.

21. By an act approved March 3, 1827, the accounting officers of the Treasury Department were authorized and directed to settle the claim of the State of Pennsylvania in the same manner as in the cases of Maryland, Delaware, and New York.

22. By an act approved March 22, 1832, entitled "An act for the adjustment and settlement of the claims of the State of South Carolina against the United States," the accounting officers of the Treasury were authorized and directed to liquidate and settle the claim of the State of South Carolina against the United States for interest upon money actually expended by her for military stores for the use and benefit of the United States, and on account of her militia, whilst in the service of the United States, during the late war with Great Britain, the money so expended having been drawn by the State from a fund upon which she was then receiving interest. The act designates upon what sums interest shall be paid, and recites in detail other claims of the State theretofore disallowed, which shall be adjusted and settled, such as claims for cannon-balls, transportation of troops and supplies, pay to certain staff officers, blankets ($7,500 being the amount of this item), and muskets.

23. By an act approved March 3, 1857, a re-examination and re-adjustment of the account of the State of Maryland was directed to be made, and it was provided that in the calculation of interest the following rules should be observed:

"Interest shall be calculated up to the time of any payment made. To this interest the payment shall be first applied, and if it exceeds the interest due, the balance shall be applied to diminish the principal; if the payment fall short of the interest, the balance of interest shall not be added to the principal so as to produce interest. Second, interest shall be allowed on such sums only on which the State either paid interest or lost interest by the transfer of an interest-bearing fund."

Under this act Maryland received the additional sum of $275,770.23.

24. By section 7 of said act (March 1, 1837), an appropriation was made to pay all the claims of North Carolina for the services of her militia during the war of 1812 with Great Britain in the cases enumerated in the act approved May 31, 1830, entitled "An act to authorize the payment of the claims of the State of Massachusetts for certain services of her militia during the war of 1812," and also the claims of said State for disbursements in the purchase of munitions or other supplies on account of the war and expended therein.

25. On the 8th day of July, 1870, an act was passed directing the account between the United States and Massachusetts and Maine to be re-opened and re-adjusted, and Massachusetts received the sum of $678,362.42, of which one-third was allotted to the State of Maine as an integral part of Massachusetts when the advances were made.

In the foregoing cases the principal was first re-imbursed, and subsequently the interest was adjusted and then paid by the United States. The following cases are cited as precedents, where both the principal and interest were authorized by Congress to be paid at one and the same time and in and under one and the same act:

1. By a joint resolution approved March 3, 1847 (Stats. at Large, vol. 9, p. —), the Secretary of War was authorized and required to cause to be refunded to the several States or to individuals for services rendered, acting under the authority of any State, the amount of expenses incurred by them in organizing, subsisting, and transporting volunteers previous to their being mustered and received into the service of the United States for the war with Mexico, and for subsisting troops in the service of the United States.

2. By an act approved June 2, 1848, the provisions of said joint resolution were extended so as to embrace all cases of expenses theretofore incurred in organizing, subsisting, and transporting volunteers previous to their being mustered and received into the United States for the war with Mexico, whether by States, counties, corporations, or individuals, either acting with or without the authority of any State, and that in refunding moneys under said act and said joint resolution it should be lawful to pay interest at the rate of 6 per cent. per annum on all sums advanced by States, corporations, or individuals in all cases where the State, corporation, or individual paid or lost the interest or was liable to pay it.

3. By act approved August 5, 1854, the sum of $924,259.65 was appropriated to reimburse the State of California for expenditures "in the suppression of Indian hostilities within the State prior to the 1st day of January, 1854." (See U. S. Stats. at Large for 1853 and 1854.)

4. By act approved August 18, 1856 (section 8), the Secretary of War was authorized and directed to pay to the holders of the war bonds of the State of California the amount of money appropriated by act of Congress approved May [August] 5, 1854, in payment of expenses incurred and actually paid by the State of California for the suppression of Indian hostilities within the said State prior to the 1st day of January, 1854, under the following restrictions and regulations:

Before any bonds were redeemed by the Secretary of War they were required to be presented to the board of commissioners appointed under an act of the legislature of said State, approved April 19, 1856, and the amount due and payable upon each bond indorsed thereon by said commissioners; the amounts in the aggregate not to exceed the amount appropriated by act of August 5, 1854.

All the States, except California, Oregon, and Nevada, have been re-imbursed by the United States all or nearly all of the principal of the moneys expended by them in the suppression of the rebellion. None of them have as yet been re-imbursed for interest which they paid to obtain said principal.

The following table shows the amount of money already paid by the United States as principal to the several States for the suppression of the rebellion, as shown by the books of the Treasury Department:

[Senate Ex. Doc. No. 11, Fifty-first Congress, first session, p. 63.]

States.	Amount.	States.	Amount.
Connecticut	$2,096,950.46	Minnesota	$71,075.20
Massachusetts	3,668,091.95	Kansas	384,138.15
Rhode Island	723,530.15	Nebraska	485.00
Maine	1,027,185.00	Colorado	55,238.84
New Hampshire	976,531.92	Missouri	7,580,421.43
Vermont	832,557.40	Michigan	844,262.53
New York	4,156,935.50	Delaware	31,988.96
New Jersey	1,517,026.79	Maryland	123,140.99
Pennsylvania	3,871,710.59	Virginia	48,469.97
Ohio	3,245,319.58	West Virginia	471,063.94
Wisconsin	1,035,059.17	Kentucky	3,504,466.57
Iowa	1,039,759.45		
Illinois	3,080,442.51	Total	44,137,599.84
Indiana	3,741,738.29		

In addition to the payment of said war claims to the several States on account of the war of the rebellion, as shown by the foregoing table, the claims of the following-named States for expenses in the suppression of Indian hostilities, etc., have been settled by the Third Auditor of the Treasury under the said act of June 27, 1882, and all of which have heretofore been paid by the United States:

States.	Amount.
Kansas	$332,308.13
Nebraska	18,081.23
Nevada	8,559.61
California	11,723.04
Texas	927,177.40
Total	1,297,850.01

An additional sum of $148,615.97 has been allowed the State of Texas by the Third Auditor, and the settlement is now pending before the Second Comptroller of the Treasury, under said act of June 27, 1882.

The said State war claims of California, Oregon, and Nevada during the war of the rebellion reported on by the honorable Secretary of War and said board of war claims examiners under said resolution of the Senate of February 27, 1889, were never before properly or fully considered for want of jurisdiction, as hereinbefore shown, until they were so reported upon by the present Secretary of War, Hon. Redfield Proctor, aided by said Army board in said Senate Ex. Docs. 10, 11, 17.

Your committee recognize and approve the precedents which treat interest paid by a State on money borrowed or advanced for suppressing rebellion or repelling invasion in aid of the United States as a legitimate charge against the Government in every case where the Government is equitably liable for the principal; but inasmuch as none of the States have as yet been re-imbursed for any claim for interest paid out by them on money borrowed or advanced and expended by them on account of the war of the rebellion, your committee recommend that this bill be amended so as to omit at this time the claim for interest presented by California and Oregon in the two cases examined herein and reported upon in Senate Ex. Docs., Nos. 11 and 17, Fifty-first Congress, first session.

The claim of Nevada, however, for the re-imbursement of the interest actually paid out by her on the principal by her borrowed and in good faith expended for the common defense, and at the behest of the authorities of the United States, presents a question different from that of the other States. Nevada was a Territory at the time when the greater part of these expenditures were made. The necessity for these expenditures was imperative. The settlements in Nevada were isolated and separated from California by the Sierra Nevada Mountains, which cut off all means of transportation for several consecutive months in each year. There were no railroads. Transportation of freights was confined to teams and pack animals. The Indians along the overland route became hostile and cut off communication between the Atlantic and Pacific States. It was under these circumstances that the Territory of Nevada was called upon by the United States authorities to raise volunteer troops and furnish supplies for them. Labor was excessively high on account of the new mines, and supplies scarce and exceedingly dear. This Territory had no money to comply with these demands made upon her by the United States military authorities, and was forced to borrow money as best she could.

When the Territory of Nevada became a State the State of Nevada assumed the indebtedness of the Territory, including these war claims, and inserted a provision in her constitution in the following language:

All debts and liabilities of the Territory of Nevada lawfully incurred, and which remain unpaid at the time of the admission of this State into the Union, shall be assumed by and become the debt of the State of Nevada. (Compiled Laws of Nevada, vol. 1, page 133.)

Under these exceptional circumstances your committee recommend the payment of both principal and interest in the case of Nevada.

EXTRA PAY AND BOUNTIES.

As we have already seen, the larger portion of the claims of each of the States of California, Oregon, and Nevada were expended for extra pay and bounties. This was an absolute necessity for two reasons: First, the expenses of living and wages of labor in the Pacific coast States were during the rebellion at least 50 per cent., and in many cases 200 per cent., higher than in the Atlantic States; second, the Pacific States and Territories maintained the gold standard continuously throughout the war. The United States paid said volunteer troops in Treasury notes, although they had on deposit at the sub-treasury at San Francisco at all times a large amount of gold. The discount which the soldiers were compelled to pay to convert their greenbacks into gold was from 30 to 60 per cent.

This added largely to the cost of living.

Extra pay was found necessary to provide for the support of the families of the soldiers. This extra allowance, however, in the shape of extra pay and bounty did not exceed the extra compensation which the Government had theretofore paid the officers of the Army and Navy and the enlisted soldiers and sailors stationed on the Pacific coast between the dates of the acquisition of California and the breaking out of the rebellion. The Pacific coast States and Territories had a right to assume that the United States would continue or resume such extra pay and compensation during the war of the rebellion. Certainly the necessity for it was much greater in war than in peace, and, as a matter of fact, it was imperative.

On the 17th of June, 1850, an act was passed, the third section of which reads as follows:

SEC. 3. *And be it further enacted*, That whenever enlistments are made at, or in the vicinity of, the said military posts, and remote and distant stations, a bounty equal in amount to the cost of transporting and subsisting a soldier from the principal recruiting depot in the harbor of New York, to the place of such enlistment, be, and the same is hereby, allowed to each recruit so enlisted, to be paid in unequal installments at the end of each year's service, so that the several amounts shall annually increase, and the largest be paid at the expiration of each enlistment. (U. S. Stat., vol. 9, p. 439.)

On the 23d of September, 1850, the following provision was inserted in the Army appropriation bill:

For extra pay to the commissioned officers and enlisted men of the Army of the United States, serving in Oregon or California, three hundred and twenty-five thousand eight hundred and fifty-four dollars, on the following basis, to wit: That there shall be allowed to each commissioned officer as aforesaid, whilst serving as aforesaid, a per diem, in addition to their regular pay and allowances, of two dollars each, to each enlisted man as aforesaid, whilst serving as aforesaid, a per diem, in addition to their present pay and allowances, equal to the pay proper of each as established by existing laws, said extra pay of the enlisted men to be retained until honorably discharged. This additional pay to continue until the first of March, eighteen hundred and fifty-two, or until otherwise provided. (U. S. Stat., vol. 9, p. 504.)

The first of these acts was continued in force until August 3, 1861 (U. S. Stat., vol. 12, p. 288, sec. 9), on which date it was repealed. During the time when the last of said acts was in existence the United States soldiers and sailors on the Pacific coast received nearly double pay.

During the five years immediately prior to the rebellion the United States Army serving in the Pacific coast States and Territories was composed, first, of men transported from New York, via the Isthmus of Panama, at an aggregate cost to the United States of not less than $390,103, or at an average cost for each officer of $293, and for each enlisted man of $151 when landed in Oregon; or $275 for each officer and $115 for each enlisted man, when landed in California; and when discharged, all said enlisted men were entitled to an amount of money equal to the actual cost of their traveling expenses and subsistence back to New York; estimated by the War Department to be $142, making a total aggregate cost for each enlisted man of $293 and $256, respectively; or second, said army was composed of men enlisted in the Pacific coast States and Territories, at an expense to the United States of $142 per capita, paid to each enlisted man as a bounty under said act of Congress approved June 17, 1850 (9 U. S. Stat., 439), which payments were made continuously from June 17, 1850, to August 3, 1861. (U. S. Stat., vol. 12, p. 288.)

During the first year of the war of the rebellion the larger portion of this United States military force was transported from the Pacific coast States and Territories back to New York, via the Isthmus of Panama, at an aggregate cost to the United States of not less than $303,380, or at an average cost for each enlisted man of $145 from Oregon and of $125 from California.

Details of these various items of cost to the United States for thus transporting said military force to and from New York to the Pacific coast States and Territories are set forth in a table, prepared under the direction of the honorable Secretary of War as follows, to wit:

Statement of number of officers and enlisted men of the United States Army transported at the expense of the United States from New York City to various points in California and Washington Territory via the Isthmus of Panama, in the years 1856, 1857, 1858, 1859, *and* 1860; *also the amount paid for similar services from April* 15, 1861, *to December,* 1861, *between Oregon, Washington, California, and Nevada to New York, via the Isthmus of Panama, showing the total and the average cost per capita of each, so far as shown by the records of this office.*

Destination.	Year.	Officers.	Cost.	Enlisted men.	Cost.	Total cost.	Average cost per officer.	Average cost per man.
New York City to San Francisco, Cal., via the isthmus	1856	3	$750	396	$39,600	$40,350	$267.86	$109.83
Do	1857	9	2,700	470	58,750	61,450		
Do	1858	2	600	34	493	1,093		
Do	1859*	.....	.....	.....	.....	.....		
Do	1860	21	5,325	441	44,000	49,325		
Total	.....	35	9,375	1,341	142,843	152,218		
New York City to Benicia, Cal., via the isthmus	1857	18	5,000	689	79,525	84,525	284.00	121.16
Do	1858	7	2,100	445	57,875	59,975		
Total	.....	25	7,100	1,134	137,400	144,490		
New York City to Fort Vancouver, Wash., and near Portland, Oregon, via the isthmus	1858	15	4,500	400	61,500	66,000	293.12	151.09
Do	1859	1	190	14	1,050	1,240		
Total	.....	16	4,690	414	62,550	67,240		
Fort Vancouver, Wash., to Benicia, Cal	1856	1	60	50	1,750	1,810	60.00	35.00
San Francisco, Cal., to Fort Vancouver, Wash	1858	18	1,000	787	23,345	24,345	55.56	29.66
San Francisco, Cal., to New York City, via the isthmus	1861	49	12,250	1,405	186,875	199,125	250.00	125.00
San Pedro, Cal., to New York City, via the isthmus	1861	15	3,750	500	62,500	66,250	250.00	125.00
San Francisco, Cal., to Fort Vancouver, Wash	1861	30	1,200	775	15,500	16,700	40.00	20.00
Fort Vancouver, Wash., to San Francisco, Cal	1861	34	1,400	960	19,900	21,300	40.00	20.73

* None found.

QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., January 8, 1890.

In consequence of this withdrawal in 1861 of said military forces from the Pacific coast, in order that they might perform military services in the East, and in view of the circumstances and exigencies existing in the Pacific Coast States and Territories during the rebellion period, requisitions were duly made from time to time by the President of the United States and by the Secretary of War upon the proper State authorities of California, Oregon, and Nevada for volunteers to perform military service for the United States in said States and Territories, as are fully and in detail set forth in said Senate Ex. Docs., Nos. 10, 11, 17, Fifty-first Congress, first session. In compliance with the several calls so made between 1861 and 1866, inclusive,

	Volunteers.
The State of California furnished	15,725
The State of Nevada furnished	1,180
The State of Oregon furnished	1,810
Making a total aggregate of	18,715

men who enlisted and were duly mustered into the military service of the United States as volunteers in said States. The same number of

troops if organized and transported from New York City to the Pacific coast States and Territories in the same manner as was done by the United States War Department from June 17, 1850, to August 3, 1861, would have cost the United States at that time the sum of about $5,483,385 for *transportation alone.*

The reports of said war claims examiners upon extra pay in Nevada, California, and Oregon are as follows, to-wit:

[Senate Ex. Doc. No. 10, Fifty-first Congress, first session, p. 7.]

NEVADA.

Extra monthly pay—liabilities assumed.

It appears from the affidavit of the State comptroller (herewith, marked Exhibit No. 2), that liabilities to the amount of $1,153.75 were assumed by the State of Nevada as successor to the Territory of Nevada on account of "costs, charges, and expenses for monthly pay to volunteers and military forces in the Territory and State of Nevada in the service of the United States," and that State warrants fully covering such liabilities were duly issued. It is also shown in the affidavit that of said warrants two for the sums of $11.33 and $8.50 respectively have been paid, such payment reducing said liabilities to $1,133.92.

The circumstances and exigencies under which the Nevada legislature allowed this extra compensation to its citizens serving as volunteers in the United States Army are believed to have been substantially the same as those that impelled the legislatures of California and Oregon to a similar course of action for the relief of the contingent of troops raised in each of these States. Prices of commodities of every kind were extravagantly high during the war period in Nevada, which depended for the transportation of its supplies upon wagon roads across mountain ranges that were impassable for six months of every year; and at certain times at least during the said period, the rich yields of newly-opened mines produced an extraordinary demand for labor, largely increasing wages and salaries. These high prices of commodities and services were co-existent with, though in their causes independent of, the depreciation of the Treasury notes, which did not pass current in that section of the country, though accepted through necessity by the troops serving there; and it is safe to say that in Nevada, as in California and Oregon, the soldier could buy no more with a gold dollar than could the soldier serving in the Eastern States with the greenback or paper dollar.

On the whole, therefore, we are decided in the conviction that in granting them this extra compensation the legislature was mainly instigated by a desire to do a plain act of justice to the United States volunteers raised in the State and performing an arduous frontier service, by placing them on the same footing, as regards compensation, with the great mass of the officers and soldiers of the United States Army, serving east of the Rocky Mountains. It is true that the seven companies of infantry that were called for on October 19, 1864, had not been organized; and that on March 8, 1865, three days before the approval of the State law above noticed, the commanding general Department of the Pacific wrote as follows from his headquarters at San Francisco to the governor of Nevada (see page 287, Senate Ex. Doc. 70, Fiftieth Congress, second session):

"What progress is making in recruiting the Nevada volunteers? I will need them for the protection of the State, and trust that you may meet with success in your efforts to raise them. I hope the legislature may assist you by some such means as have been adopted by California and Oregon."

But the fact remains that the declared purpose of the monthly allowance was to give a compensation to the Nevada volunteers (see section 1 of the act last referred to), and that when measured by the current prices of the country in which they were serving, their compensation from all sources did not exceed, if indeed it was equal to, the value of the money received as pay by the troops stationed elsewhere, *i. e.*, outside of the Department of the Pacific.

[Senate Ex. Doc. No. 11, Fifty-first Congress, first session, p. 23.]

CALIFORNIA.

Extra pay to enlisted men.

By an act approved April 27, 1863, the legislature appropriated and set apart "as a soldiers' relief fund" the sum of $600,000, from which every enlisted soldier of the companies of California volunteers raised or thereafter to be raised for the service of the United States was to be paid, in addition to the pay and allowances granted him

by the United States, a "compensation" of $5 per month from the time of his enlistment to the time of his discharge. Drafted men, substitutes for drafted men, soldiers dishonorably discharged or discharged for disability existing at time of enlistment, were not to share in the benefits of the act, and, except in cases of married men having families dependent upon them for support, payment was not to be made until after discharge. Seven per cent. interest bearing bonds to the amount of $600,000, in sums of $500, with coupons for interest attached to each bond, were authorized to be issued on July 1, 1863. (Pages 349–351, Statement for Senate Military Committee.)

A few unimportant changes respecting the mode of payment in certain cases was made by act of March 15, 1864, and on March 31, 1866, the additional sum of $550,000 was appropriated for the payment of claims arising under its provisions, such sum to be transferred from the general fund of the State to the "Soldiers' Relief Fund."

Fearing that the total amount of $1,150,000 specifically appropriated might still prove insufficient to pay all the claims accruing under the act of April 27, 1863, above mentioned, the legislature directed, by an act which also took effect March 31, 1866 (page 604, Stats. of California, 1865–'66), that the remainder of such claims should be audited and allowed out of the appropriation and fund made and created by the act granting bounties to the volunteers of California approved April 4, 1864, and more fully referred to on page 19 of this report.

Upon the certificate of the adjutant-general of the State that the amounts were due under the provisions of the act and of the board of State examiners, warrants amounting to $1,459,270.21 were paid by the State treasurer, as shown by the receipts of the payees indorsed on said warrants.

It is worthy of note here that on July 16, 1863, the governor of California, replying to a communication from the headquarters Department of the Pacific, dated July 5, 1863, advising him that under a resolution of Congress adopted March 9, 1862, the payments provided for by the State law of April 27, 1863, might be made through the officers of the Pay Department of the U. S. Army, stated that the provisions of said law were such as to preclude him from availing himself of the offer.

Some information as to the circumstances and exigencies under which this money was expended may be derived from the following extract from the annual report of the adjutant-general of the State for the year 1862, dated December 15, 1862:

"The rank and file of the California contingent is made up of material of which any State might be proud, and the sacrifices they have made should be duly appreciated and their services rewarded by the State. I do most earnestly recommend therefore that the precedent established by many of the Atlantic Coast States of paying their troops in the service of the United States an additional amount monthly should be adopted by California, and that a bill appropriating, say, $10 per month to each enlisted man of the troops raised or to be raised in this State be passed. * * * This would be a most tangible method of recognizing the patriotic efforts of our soldiers, relieve many of their families from actual destitution and want, and hold out a fitting encouragement for honorable service." (Page 58, Statement for Senate Committee on Military Affairs.)

Your examiners are of the opinion that the favorable action which was taken on the above recommendation of the Adjutant-General can not be justly ascribed to any desire on the part of the legislature to avoid resort to a conscription, although the exclusion of drafted men from the benefits of the act indicates that they realized and deemed it proper to call attention to the possibility of a draft. Unlike the law of April 4, 1864, the benefits of which were confined to men who should enlist after the date of its passage and be credited to the quota of the State, the provisions of the act now under consideration extended alike to the volunteers who had already entered or *had actually* completed their enlistment contract and to those who were to enlist in the future. There is every reason for the belief that the predominating if not the only reason of the State authorities in enacting this measure was to allow their volunteers in the United States service such a stipend as would, together with the pay received by them from the General Government, amount to a fair and just compensation. In fact, as has already been stated, this was expressly declared to be the purpose of the act.

It appears that up to December 31, 1862, those of the United States troops serving in the Department of the Pacific who were paid at all—in some cases attachments had not been paid for a year or more—were generally paid in coin, but on February 9, 1863, instructions were issued from the Treasury Department to the Assistant Treasurer of the United States at San Francisco that "checks of disbursing officers must be paid in United States notes." (Letter of Deputy Paymaster-General George H. Ringgold, dated February 13, 1863, to Paymaster-General; copy herewith marked Exhibit No. 10.)

Before this, greenbacks had become the current medium of exchange in all ordinary business transactions in the Eastern States, but in the Pacific Coast States and the adjoining Territories, gold continued to be the basis of circulation throughout

the war. At this time the paper currency had become greatly depreciated, and on February 28, 1863, the price of gold in Treasury notes touched 170. This action of the Government in compelling troops to accept such notes as an eqivalent of gold in payment for services rendered by them in a section where coin alone was current, gave rise to much dissatisfaction. For although gold could be bought in San Francisco at nearly the same price in Treasury notes as in New York, it must be remembered that the troops in the Department of the Pacific were largely stationed at remote and isolated points.

When paying in greenbacks for articles purchased by, or for services rendered to, them in these out-of-the-way places, they were obliged to submit not only to the current discount in San Francisco but also to a further loss occasioned by the desire of the persons who sold the articles, or rendered the service, to protect themselves against possible further depreciation. It admits of little doubt that by reason of his inability to realize the full value of paper money, as quoted in the money centers, and of the fact that wages and the cost of living and of commodities of every kind were abnormally high (owing in great part to the development of newly discovered mines in that region) the purchasing power of the greenback dollar in the hands of the average soldier serving in the Department of the Pacific was from the latter part of 1862 onward from 25 to 50 per cent. less than that of the same dollar paid to his fellow soldier in the East.

Representation of the great hardship the Treasury Department's instructions entailed upon the troops were promptly made. On March 10, 1863, the legislature telegraphed to Washington a resolution adopted on that date instructing the State's delegation in Congress to impress upon the Executive "the necessity which exists of having officers and soldiers of the U. S. Army, officers, seamen, and marines of the U. S. Navy, and all citizen employés in the service of the Government of the United States serving west of the Rocky Mountains and on the Pacific coast paid their salaries and pay in gold and silver currency of the United States, provided the same be paid in as revenue on this coast." (Page 46, Statement for Senate Committee on Military Affairs.)

And on March 16, 1863, Brig. Gen. G. Wright, the commander of the Department of the Pacific (comprising besides California, the State of Oregon and the Territories of Nevada, Utah, and Arizona), transmitted to the Adjutant-General of the U. S. Army a letter of Maj. C. S. Drew, First Oregon Cavalry, commandant at Camp Baker, Oregon, containing an explicit statement of the effects of and a formal protest against paying his men in greenbacks. In his letter of transmittal (page 154, Ex. Doc. 70), General Wright remarked as follows:

"The difficulties and embarrassments enumerated in the major's communication are common to all the troops in this department, and I most respectfully ask the serious consideration of the General-in-Chief and the War Department to this subject. Most of the troops would prefer waiting for their pay to receiving notes worth but little more than half their face; but even at this ruinous discount, officers, unless they have private means, are compelled to receive the notes. Knowing the difficulties experienced by the Government in procuring coin to pay the Army, I feel great reluctance in submitting any grievances from this remote department, but justice to the officers and soldiers demands that a fair statement should be made to the War Department."

It was under circumstances and exigencies such as these that the legislature themselves—all appeals to the General Government having proved futile—provided the necessary relief by the law of April 27, 1863. They did not even after that relax their efforts on behalf of United States troops, other than their own volunteers, serving among them, but on April 1, 1864, adopted a resolution requesting their representatives in Congress to "use their influence in procuring the passage of a law giving to the officers and soldiers of the regular Army stationed on the Pacific coast an increase of their pay, amounting to 30 per cent. on the amount now allowed by law."

[S. Ex. Doc. No. 17, Fifty-first Congress, first session, p. 14.]

OREGON.

Extra monthly compensation to officers and enlisted men of volunteers.

The certificate of the State treasurer, duly authenticated by the secretary of state under the seal of the State, sets forth that the amounts severally paid out for the redemption of relief bonds, as shown by the books of the treasurer's office, as reported by the treasurer to the several legislative assemblies and as verified by the several joint committees (investigating commissions) of said assembly under the provisions

of a joint resolution thereof, aggregate $90,476.32. The following books, papers, etc., are also submitted in evidence of payment:

(1) The canceled bonds.

(2) A copy of the relief bond register, the correctness of which is certified by the secretary of state and State treasurer, showing number of bond, to whom issued, date of issue, and amount of bond; also showing the date and rate of redemption. The reports of the joint committees of the legislature above mentioned, to the effect that they compared the record kept by the State treasurer with the bonds redeemed and found the amounts correct and agreeing with the amounts reported by the State treasurer to the legislative assembly, are entered in said bond register.

(3) Certificates of service given to the several Oregon volunteers upon which warrants were given entitling the holders to bonds. These certificates cover service for which the sum of $86,639.85 was due. The remainder of the certificates, the State authorities report, were not found and are probably lost or destroyed.

(4) Copies of the muster-rolls of the Oregon volunteers, certified to by the secretary of state, setting forth the entire service of each officer and enlisted man.

In all, bonds amounting to $93,637 were issued. As has been stated but $90,476.32 is found to have been expended in the redemption of these bonds, some of which were redeemed at less than their face value. Five bonds, valued at $731, have not been redeemed.

The authority by which these bonds were issued is contained in an act of the legislature, which was approved on October 24, 1864 (copy herewith), appropriating a sum not exceeding $100,000 to constitute and be known as the "commissioned officers' and soldiers' relief fund," out of which was to be paid to each commissioned officer and enlisted soldier of the companies of Oregon volunteers raised in the State for the service of the United States to aid in repelling invasion, etc., from the time of their enlistment to the time of their discharge, $5 per month in addition to the pay allowed them by the United States. Enlisted men not receiving an honorable discharge from the service, or volunteers discharged for disability existing at the time of enlistment, were not to be entitled to the benefits of the act, nor was payment under the provisions thereof to be made to an enlisted soldier until he should be honorably discharged the service; but enlisted married men having families dependent upon them were authorized to allot the whole or any portion of the monthly pay accruing to them for the support of such dependents. A bond bearing interest, payable semi-annually, at 7 per cent. per annum, redeemable July 1, 1875, with coupons for the interest attached, was to be issued by the secretary of state for such amount as the adjutant-general should certify to be due under the provisions of the act to each man, whose receipt for the amount so paid him was to be taken by the secretary of state. Said bonds were to be paid to the recipient or order.

The circumstances and exigencies that led to the enactment of the above-cited law and to the expenditures incurred under its provisions were substantially the same as those which brought about the adoption of similar measures of relief in California and Nevada. It must have been patent to every one fully acquainted with the circumstances of the case that the volunteers, that had been raised in Oregon, at this time (October 24, 1864) consisting only of the seven companies of the First Oregon Cavalry and the independent detachment of four months' men, a majority of whom had then nearly completed their term, had been greatly underpaid, considering the nature of the service performed by them and the current rate of salaries and wages realized in other pursuits of life. At the time of the enrollment and muster in of the First Oregon Cavalry and up to the latter part of 1862 the Government paid those of its troops in the Department of the Pacific, that were paid at all, in specie; but as often happened during the war a number of the companies of the regiment named, occupying remote stations, remained unpaid for a long time and were finally paid in Treasury notes, some of the members having more than a year's pay due them.

During the remainder of the war the Government paid its troops in the Department of the Pacific, as elsewhere, in greenbacks. Referring to this condition of things and to the fact that coin continued to be the ordinary medium of exchange in Oregon in private business transactions, Maj. C. S. Drew, First Oregon Cavalry, in a letter to his department commander, dated March 4, 1863 (page 154, Ex. Doc. 70), called attention to the fact that at his station (Camp Baker) Treasury notes were worth "not more than 50 or 55 cents per dollar;" that each officer and soldier of his command was serving for less than half pay, and had done so, some of them, for sixteen months past; that while capital protected itself from loss and perhaps realized better profits than under the old and better system of payment in coin, "the soldier did not have that power, and if paid in notes must necessarily receipt in full for what is equivalent to him of half pay or less for the service he has rendered, and must continue to fulfill his part of the contract with the Government for the same reduced rate of pay until his period of service shall have terminated; and that "good men will not enlist for $6 or $7 a month while $13 is the regular pay, and, moreover, being realized by every soldier

in every other department than the Pacific." In forwarding this letter to the Adjutant-General, U. S. Army, the department commander remarked that the embarrassments enumerated in the major's communication were common to all the troops in the department, and he therefore asked "the serious consideration of the General-in-Chief and the War Department to this subject." Some months later (August 18, 1863) General Alvord, while reporting to the department commander the location of a new military post at Fort Boisé, referred to the difficulties encountered by the garrison* charged with the duty of establishing it, as follows:

"Some difficulty is experienced in building the post in consequence of the low rates of legal-tender notes. In that country they bear merely nominal value. The depreciation of the Government currency not only embarrasses the Quartermaster's Department, but also tends greatly to disaffect the men. The differences between their pay and the promises held out by the richest mines, perhaps, on the coast, the proximity of which makes them all the more tempting, is so great that many desertions occur." (Ex. Doc. 70, page 188.)

About the same time (September 1, 1863) the adjutant-general of the State complained of the inadequacy of the soldiers' pay, resulting from the depreciation of the paper currency with which they were paid. Referring to the fact that after the expiration of eight months from the date of the requisition of the United States military authorities for six additional companies for the First Oregon Cavalry but one had been raised, he said:

"And yet we are not prepared to say that it is for the want of patriotism on the part of the people of Oregon, but from other causes, partly from the deficiency in the pay of the volunteer in comparison with the wages given in the civil pursuits of life, as well as with the nature of the currency with which they are paid, the depreciation of which renders it hardly possible for the soldier to enlist from any other motive save pure patriotism. And I would here suggest that the attention of our legislature be called to this defect, and that additional pay, either in land, money, or something else, be allowed to those who have volunteered. Justice demands that this should be done."

In enacting the relief law of October 24, 1864, it is fair to presume that the legislature was largely influenced by the following statements and recommendations of the governor contained in his annual message, dated September 15, 1864:

"The Snake and other tribes of Indians in eastern Oregon have been hostile and constantly committing depredations. The regiment has spent two summers on the plains, furnishing protection to the immigration and to the trade and travel in that region of the country. During the past summer the regiment has traveled over twelve hundred miles, and the officers and men are still out on duty. The officers and most, if not all, the men joined the regiment through patriotic motives, and, while some of the time they have been traveling over rich gold fields, where laborers' wages are from $3 to $5 per day, there have been very few desertions, and that, too, while they were being paid in depreciated currency, making their wages only about $5 per month. A great many of these men have no pecuniary interest in keeping open the lines of travel, protecting mining districts and merchants and traders. The benefit of their service thus insures [inures] to the benefit of others, who should help these faithful soldiers in bearing these burdens. Oregon, in proportion to her population and wealth, has paid far less than other States for military purposes. California pays her volunteers $5 per month extra in coin. It would be but an act of simple justice for this State to make good to the members of this regiment their losses by depreciated currency." (Page 87, Statement for Senate Military Committee.)

It is to be noted here that while the officers and men who became the beneficiaries of this law had been paid in a depreciated currency, which in Oregon does not appear to have had more than two-thirds of the purchasing power it had in the East, the Government provided them with clothing, subsistence, shelter, and all their absolutely necessary wants. On the other hand, it is to be borne in mind that the legislature must have been aware of the fact noted, and that it granted the extra compensation from a sense of justice and without any purpose calculated to benefit the State at large, such as might be reasonably inferred from the granting of bounties to men "who should hereafter enlist." As has been already mentioned, the terms of the Oregon Volunteers were drawing to a close and the benefits of the law were restricted to the volunteers "raised," and did not therefore include those "to be raised."

California, as shown by the report (Senate Ex. Doc. No. 11, Fifty-first Congress, first session) of said war claims examiners, expended $468,976.54 on account of her militia during the war of the rebellion. The circumstances under which this expenditure was made present a strong case of equity for reimbursement, but inasmuch as the militia of

*Although the First Oregon Cavalry did not form a part of this garrison, three companies of it were at this time scouting against hostile Indians in the vicinity of the post.

California did not serve under the direct or immediate authority of the United States during the war of the rebellion, your committee do not allow it at this time, although they do not reject it for want of merit.

Oregon expended on account of her militia, as shown by the report of said war claims examiners, $21,118.73, and your committee make a similar recommendation in regard to that claim.

Some of the circumstances under which the present war claim of the State of Nevada was created are set forth in the report of the majority of the Committee on Military Affairs made in the Fiftieth Congress, first session (Senate Report No. 1286), which, without the appendix, is as follows, to wit:

Senate Report No. 1286, Fiftieth Congress, first session.

MAY 14, 1888.

Mr. STEWART, from the Committee on Military Affairs, submitted the following report:

[To accompany bill S. 2918]

OBJECT OF THIS BILL.

The object of this bill is to re-imburse the State of Nevada for moneys paid and contracted to be paid by the Territory of Nevada and afterwards assumed and paid by that State, and also for moneys actually expended by Nevada after becoming a State for the common defense and in furnishing troops to the United States during the suppression of the war of the rebellion, and for guarding the overland mail and emigrant route between the Missouri River and California, and for suppressing Indian hostilities under circumstances hereinafter set forth.

APPEAL OF PRESIDENT LINCOLN, THROUGH SECRETARY SEWARD, TO THE NATION FOR AID.

On October 14, 1861, Mr. Seward, Secretary of State, addressed a circular letter to the governors of the loyal States and Territories, calling for assistance for the General Government in suppressing hostilities in the so-called Confederate States, and for the improvement and perfection of the defenses of the loyal States respectively. A copy of this letter is printed in the appendix hereto, marked Exhibit No. 1, page 23.

ACTION TAKEN BY NEVADA IN RESPONSE TO THE FOREGOING APPEAL OF SECRETARY SEWARD.

Upon the receipt of this letter the legislative assembly of Nevada Territory at its first session passed appropriate resolutions pledging the support of the people of that Territory to the Union cause to the extent of their means, which resolutions are printed in the appendix, marked Exhibit No. 2, page 24.

On the 28th day of November, 1861, three days after the passage of the resolutions above mentioned, the legislative assembly of Nevada also passed an elaborate law for the enrollment and organization of a militia force to aid the United States when called upon in the suppression of the rebellion, and to carry out the spirit and intent of the aforesaid circular letter of Secretary Seward. This law will be found on

pages 106 to 125 of the Laws of Nevada Territory, 1861. This act provided that the militia of the Territory organized under its provisions should be subject to be called into the military service of the United States by the President, or any officer of the United States Army commanding a division or a department. A militia force was immediately organized under its provisions. H. P. Russell was appointed adjutant-general, and was succeeded by Col. John Cradlebaugh, who is mentioned in the resolutions above referred to and printed in the appendix as Exhibit No. 2, page 24.

It will thus be seen that Nevada made the necessary preparations, organized her militia, and was ready to answer any call that might be thereafter made upon her by the General Government, and also to protect the Territory against a large portion of its inhabitants who desired to join the Confederacy.

CONDITION OF AFFAIRS THAT RENDERED A CALL FOR NEVADA VOLUNTEERS NECESSARY.

The Territory of Nevada was organized by Congress on March 2, 1861, (12 U. S. Stats., 209). At the breaking out of the rebellion it became a serious question what attitude Nevada would occupy, and home guards were immediately organized. These guards afterwards formed a portion of the militia of the Territory as provided for in the aforesaid militia law, and protected the inhabitants from violence, without any expense to the Government of the United States.

In the early part of April, 1863, the overland mail and emigrant route was attacked by Indians and communication was closed between the Atlantic States and the Pacific coast. This route extended from the Missouri River to California via the Platte River, Salt Lake City, through Nevada to Sacramento, in California, and was the only means at that date of direct overland communication between the Missouri River and California. At this time the gold discoveries in California continued to invite a large immigration, the interest in which was more or less intensified by the continued extensive silver discoveries in Nevada Territory, and principally on the Comstock lode in the western part of the Territory. The routes via Cape Horn, and especially that via the Isthmus of Panama, were rendered extremely doubtful, dangerous, and expensive, on account of Confederate privateer cruisers hovering around the West India Islands and along both these sea routes, and in anticipation of other Confederate cruisers infesting the waters of the Pacific (which soon thereafter became the theater of the operations and extensive depredations of the Confederate privateer cruiser *Shenandoah*) the overland route, therefore, although in itself both dangerous and difficult, was yet considered the better and preferable route by which to reach the Pacific.

On account of a general uprising of the Indians along the entire overland route, and especially that portion between Salt Lake City, in the Territory of Utah, and the Sierra Nevada Mountains, and because of the doubts as to the loyalty of the Mormons to the Government of the United States, the maintenance and protection of the mail and emigrant route through that section of the country and along the aforesaid line was regarded by the Government as a military necessity. Apparently in anticipation of no immediate danger of attack on the Pacific coast, nearly all the troops of the regular Army at this time had been withdrawn from service throughout this entire region of country and transferred East to other fields of military operations. This left the entire coun-

try between Salt Lake City and the Sierra Nevada Mountains without adequate and efficient military protection. The Government thus having but few troops of its regular Army in that region, was therefore compelled to call upon the inhabitants of Nevada Territory to raise and organize volunteer military companies to suppress Indian disturbances which threatened the entire suspension of all mail facilities and emigration from the East, as will be hereafter shown.

At the time of the calls upon Nevada for troops the prices of labor and supplies of all descriptions in Nevada were extremely high. There were then no railroads, and the snow on the Sierra Nevada Mountains formed an almost impassable barrier against teams from about the 1st of December until about June. The average cost of freight from San Francisco, the main source of supply for western Nevada, was about $80 a ton, and it was necessary to lay in supplies during the summer and fall for the remainder of the year. A great mining excitement prevailed at this time, occasioned by the marvelous development of the great Comstock lode, and wages were from $4 to $10 a day in gold. The people who had emigrated to the new gold and silver fields went there for the purpose of mining and prospecting for mines, and were generally reluctant to enter the irregular military service of guarding the overland mail and emigrant route. Besides, on account of the extraordinary high price of supplies of every description, and also of wages and services of every kind, it was impossible for them to maintain themselves and families without involving much more expense than any compensation which could be paid them as volunteer troops under the laws of the United States, and, as will be seen by the letters of General Wright, hereafter quoted, they were expected, as volunteer troops, to furnish themselves with horses and equipments, in addition to what could be furnished by the Government.

The military authorities of the United States well knew at that time the exact condition of the country and of the roads across the mountains leading thereto and of the cost of transportation and of the prices of labor and of supplies and of their own inability to furnish either horses or equipments for a military service that required mounted troops.

FIRST CALL BY THE UNITED STATES FOR NEVADA VOLUNTEERS.

In view of the necessities of the situation, and with all the facts fully known to the military authorities of the United States, General Wright, commanding the Department of the Pacific, was authorized by the War Department to raise volunteer military companies in Nevada Territory for the protection of said overland mail and emigrant route, and on April 2, 1863, he addressed the following requisition for troops to the Governor of the Territory:

HEADQUARTERS DEPARTMENT OF THE PACIFIC,
San Francisco, Cal., April 2, 1863.

His Excellency O. CLEMENS,
Governor of Nevada Territory, Carson City, Nev.:

SIR: I have been authorized by the War Department to raise volunteer companies in Nevada Territory for the purpose of moving east on the overland mail route in the direction of Great Salt Lake City. If it is possible to raise three or four companies in the Territory for this service I have to request your excellency may be pleased to have them organized. I should be glad to get two companies of cavalry and two of infantry. The mounted troops to furnish their own horses and equipments. Arms, ammunition, etc., will be furnished by the United States. Should your excellency consider it improbable that this volunteer force can be raised, even one company will be

accepted. I will send you a plan of organization, and an officer with the necessary instructions for mustering them into the service.

With great respect, I have the honor to be, your most obedient servant,

G. WRIGHT,
Brigadier-General, U. S. Army, Commanding.

Official copy.

J. C. KELTON,
Colonel, A. A. G.

While correspondence was being conducted between the Governor of Nevada and General Wright as to the method of organizing Nevada's troops, the following telegram was dispatched by General H. W. Halleck, general-in-chief of the U. S. Army, to General Wright:

HEADQUARTERS OF THE ARMY,
Washington, D. C., April 15, 1863.

Brig. Gen. G. WRIGHT,
San Francisco, Cal.:

The Secretary of War authorizes you to raise additional regiments in California and Nevada to re-enforce General Conner and protect overland route. Can not companies be raised in Nevada and pushed forward immediately? General Conner may be able to raise some companies in Utah or out of emigrant trains.

H. W. HALLECK,
General-in-Chief.

Whereupon General Wright addressed the governor of Nevada Territory the following communication:

HEADQUARTERS DEPARTMENT OF THE PACIFIC,
San Francisco, Cal., April 16, 1863.

His Excellency ORION CLEMENS,
Governor of Nevada Territory, Carson City, Nev.:

SIR: I have the honor to acknowledge the receipt of your excellency's communication of the 9th instant.

The Indian disturbances along the line of the overland mail route, east of Carson City, threaten the entire suspension of our mail facilities, as well as preventing any portion of the vast immigration approaching from the east reaching Nevada. The interest and prosperity of your Territory depend much upon maintaining free and safe access to it from all directions. My force immediately available for operation on that line is small. A company of cavalry stationed at Fort Churchill, and under orders to move towards Ruby Valley, I was compelled to divert for temporary service to assist in quelling an Indian outbreak in the Owen's Lake district. As soon as the services of this company can be dispensed with there, it will operate on the mail and emigrant line. Some infantry companies will also be thrown forward from this side of the mountains as soon as transportation can be prepared and the roads are in order. In the mean time it is of such importance to keep the mail and emigrant route east of you open, that I would earnestly recommend that one or two companies of cavalry be promptly organized and prepared for muster into the service of the United States. It is impossible for us at this moment to purchase horses and equipments. Each man would have to furnish his own.

I can furnish arms, ammunition, forage, clothing, provisions, etc.; in fact, everything except horses and equipments.

The organization of a company or troop of cavalry is: one captain, one first lieutenant, one second lieutenant, one first sergeant, one quartermaster-sergeant, one commissary sergeant, five sergeants, eight corporals, two teamsters, two farriers or blacksmiths, one saddler, one wagoner, and seventy-eight privates.

This is the first appeal that has been made to Nevada Territory, a Territory soon to add another star to that glorious galaxy which adorns our beautiful banner, and I doubt not this call will be nobly responded to by the loyal and patriotic citizens of the Territory.

With great respect, your excellency's most obedient servant,

G. WRIGHT,
Brigadier-General U. S. Army, Commanding.

Official copy.

J. C. KELTON.
Colonel, A. A. G.

NEVADA'S RESPONSE TO THE FOREGOING CALL FOR TROOPS BY THE UNITED STATES.

Immediately upon the receipt of the foregoing requisition for troops the governor of Nevada issued the following proclamation:

PROCLAMATION.

EXECUTIVE DEPARTMENT,
Carson City, April 24, 1863.

Whereas Brigadier-General George Wright, United States Army, commanding officer of the Department of the Pacific, has, by authority of the War Department called upon me for two companies of infantry and two companies of cavalry to serve three years, or during the war:

Now, therefore, I, Orion Clemens, governor of the Territory of Nevada and commander-in-chief of the militia thereof, do hereby authorize and call upon the citizens of the Territory, as many as shall be necessary to fill up the preceding requisition, to immediately organize themselves into companies as required hereby.

In witness whereof I have hereunto set my hand and affixed the great seal of the Territory.

Done at Carson City, Territory of Nevada, this 24th day of April, in the year of our Lord one thousand eight hundred and sixty-three.

ORION CLEMENS,
Secretary and Acting Governor.

In answer to these calls and requisitions of General Wright and said proclamation of the governor of Nevada four companies of cavalry were completely organized, two of which were sent to Camp Douglas, Utah Territory, for military service, and the remaining two were sent to station Fort Churchill, Nev.

SECOND CALL AND REQUISITION OF THE UNITED STATES FOR NEVADA VOLUNTEERS.

Thereafter General Wright made a further requisition upon the governor of Nevada for two additional companies of cavalry and a regiment of infantry, as will appear from the following:

HEADQUARTERS DEPARTMENT OF THE PACIFIC,
San Francisco, December 22, 1863.

SIR: The four companies of cavalry called for from the Territory of Nevada have completed their organization; two of the companies have reached Camp Douglas, Utah, and the remaining two are at Fort Churchill, Nev. On the representations of Governor Nye that additional troops can be raised in Nevada, I have, under the authority conferred upon me by the War Department, called upon the governor for a regiment of infantry and two more companies of cavalry.

Very respectfully, your obedient servant,

G. WRIGHT,
Brig. Gen., U. S. Army, Commanding.

ADJUTANT-GENERAL, U. S. ARMY,
Washington, D. C.

WHAT WAS DONE BY NEVADA UNDER THE SECOND CALL AND REQUISITION BY THE UNITED STATES FOR NEVADA VOLUNTEERS.

In response to General Wright's second requisition for troops made in the latter part of November, 1863, the governor of Nevada issued the following proclamation:

PROCLAMATION.

Whereas a requisition having been made upon me by Brig. Gen. George Wright, U. S. Army, commanding the Department of the Pacific, for one regiment of volunteer infantry and two companies of cavalry, for service in the employ of the General Government of the United States;

Now, therefore, I, James W. Nye, governor of the Territory of Nevada and com-

mander-in-chief of the militia thereof, by virtue of the authority in me vested, do issue this my proclamation, calling upon the people of this Territory to forthwith proceed to organize a regiment of infantry, consisting of ten companies, and two companies of cavalry, in full compliance of said requisition.

All applicants for line officers will present themselves before the Army examining board for examination, and report to me with certificate of such examination as soon as practicable.

Given under my hand and seal at Carson, Nev., this 4th day of December, A. D. 1863.

JAMES W. NYE,
Governor of the Territory of Nevada.

Attest:
ORION CLEMENS,
Secretary of the Territory.

Under this last requisition of General Wright and last proclamation of the governor of Nevada two additional cavalry companies and the First Battalion Nevada Infantry Volunteers, composed of four companies, were raised and assigned to duty to such fields of military service in Utah and Nevada as were determined upon by General Wright, as will appear from the correspondence printed in the appendix, marked "Exhibit 3, pages 24 to 29.

It will thus be seen that the people of the Territory of Nevada responded promptly to and complied fully with the appeals of the United States Government for troops and in accordance with the requisitions and calls of the War Department. The action of the people of Nevada was reported to Mr. Seward, Secretary of State, by the governor of Nevada on March 25, 1864. He wrote to Mr. Seward the condition of affairs in the Territory, which letter was transmitted to the Senate by President Lincoln on April 29, 1864 (see Senate Ex. Doc. No. 41, 38th Cong., 1st sess.). In his report Governor Nye said:

We have raised in the Territory within the last two years one company of infantry, now attached to a California regiment, a battalion of cavalry, consisting of six companies, four of which are in the field; the remaining two will be there also as soon as they can be mounted. In addition we are raising a regiment of infantry, now in a good state of forwardness, and we can raise a brigade easily if necessary.

SOME OF THE DUTIES OF THE TROOPS CALLED TO AID THE UNITED STATES AT THIS TIME.

The first duty of these troops was to open and guard the overland mail and emigrant route from the Sierra Nevada Mountains to Utah. The campaign in which this was accomplished was under the command of General Conner. The volunteer troops under this gallant officer had already conducted a most successful campaign against the Indians of eastern Nevada, Utah, and Idaho, in the region where the Mormon influence was most potential, conquered many Indian tribes, and secured lasting peace.

The Secretary of War, in reporting to Congress the condition of things in that region of country, then under the military command of General Conner, said as follows, to wit:

DEPARTMENT OF THE PACIFIC.

This department has been most signally exempt from the evils of civil war, and consequently has enjoyed unexampled prosperity. Some thefts and robberies having been committed by roving bands of Indians on the overland stage route in January last, General Conner marched with a small force to Bear River, Idaho, where, on the 26th, he overtook and completely defeated them in a severe battle, in which he killed 224 of the 300 and captured 175 of their horses. His own loss in killed and wounded was 63 out of 200. Many of his men were severely injured by the frost. Since this severe punishment the Indians in that quarter have ceased to commit depredations on the whites. (*Secretary of War's* report, first session Thirty-eighth Congress.)

ADDITIONAL CAUSES THAT LED TO A THIRD CALL AND REQUISITION BY THE UNITED STATES FOR NEVADA VOLUNTEERS.

Congress having on July 1, 1862, chartered the Union Pacific Railroad Company, to which, and also to the Central Pacific Railroad Company, aid was given to build one continuous line of railroad from the Missouri River to the Pacific Ocean through this region of country, did, on July 2, 1864, still further foster these enterprises by additional grants. These two companies thereupon placed in the field numerous corps of surveyors, civil engineers, and employés to explore said country in the effort to discover the most practicable and economical railroad route from the Missouri River to the Pacific, and to run trial lines and definitely locate the lines of the two subdivisions of said railroad route. In regard to these roads the Secretary of War, in his annual report for 1864–'65, page 144, said:

> It is, in a military sense, of the utmost importance that the Pacific Railroad should be pressed to the earliest possible completion.

The exploration and location for a Pacific railroad through that region of country then mostly uninhabited except by large tribes and roving bands of hostile Indians, called for additional military protection and rendered it necessary for the United States to again call upon Nevada to raise additional troops. Accordingly General McDowell, commanding the Department of the Pacific, made the following call on October 13, 1864, upon the Governor of Nevada Territory:

HEADQUARTERS DEPARTMENT OF THE PACIFIC,
Virginia City, October 13, 1864.

SIR: I have the honor to acquaint you that I have received authority from the War Department to call on you, from time to time, as the circumstances of the service may require, for not to exceed in all, at any one time, one regiment of volunteer infantry and one regiment of volunteer cavalry, to be mustered into service of the United States as other volunteer regiments, under existing laws and regulations.

Under this authority I have to request you will please raise, as soon as possible, enough companies of infantry to complete, with those already in service from Nevada, a full regiment of infantry.

Brigadier-General Wason will confer with you and give all the information necessary to details for this service.

I have the honor to be, governor, very respectfully, your most obedient servant,
IRWIN MCDOWELL,
Major-General, Commanding Department.

His Excellency JAMES W. NYE,
Governor of Nevada Territory.

WHAT WAS DONE BY NEVADA IN RESPONSE TO THIS CALL.

The governor of Nevada responded to this call by issuing the following proclamation:

PROCLAMATION.

TERRITORY OF NEVADA, EXECUTIVE DEPARTMENT,
Carson City, October 19, 1864.

Whereas I have received a requisition from Maj. Gen. Irwin McDowell, commanding Department of the Pacific, the same having been made under authority from the War Department, to raise, as soon as possible, enough companies of infantry to complete, with those already in service from Nevada, a full regiment of infantry:

Now, therefore, I, James W. Nye, governor of the Territory of Nevada, and commander-in-chief of the militia thereof, do hereby call upon the citizens of this Territory to organize themselves into seven companies, sufficient to fill the battalion of infantry now in service from this Territory, and the requirements of said requisition.

In witness whereof I have hereunto set my hand and caused the great seal of the

Territory of Nevada to be affixed. Done at Carson City this 19th day of October, 1864.

JAMES W. NYE,
Governor and Commander-in-Chief of the Territory of Nevada.

Attest:
ORION CLEMENS,
Secretary of the Territory.

Afterward the Indians became troublesome between Utah and the Missouri River. During the years 1865–'66 the Nevada cavalry were actively engaged in Colorado, Wyoming, Kansas, and Nebraska in the Indian wars in that region. The writer of this report crossed the continent in the summer of 1865, and met several small detachments of Nevada cavalry in active service against the Indians, and was much gratified to learn that they were quite celebrated for their gallantry and faithful services in that kind of warfare, which subjects the soldier to the severest test of endurance, and requires individual exertion and watchfulness unknown in civilized war.

METHOD RECOGNIZED BY NEVADA FOR THE ENROLLMENT OF HER TROOPS CALLED INTO THE MILITARY SERVICE OF THE UNITED STATES AND HER MODE OF DEFRAYING THE EXPENSES OF SUCH ENROLLMENT FOR SUCH SERVICE.

The citizens of Nevada were never drafted, nor did they ever hire substitutes, but were organized into military companies by commanding officers, most of whom had undergone an examination for commission before military boards instituted for that purpose and satisfactory to the general of the United States Army commanding the military Department of the Pacific.

As a compensation to and a reimbursement intended for all the costs by them incurred for raising and organizing said volunteer military companies, and in lieu of all other kinds of expenses necessarily incident to enrolling and enlisting the members of said companies for the military service of the United States, the legislature of Nevada passed an act providing for the payment to the commanding officers of said companies of $10 per capita for each volunteer soldier by them for said purposes enrolled and enlisted, aggregating the sum of $11,840. This provision in said statute was improperly called a "bounty;" but this expenditure was not in any sense whatsoever a "bounty," but, on the contrary, it was an actual disbursement by Nevada to cover all the legitimate expenses of every kind incident to enrolling and enlisting Nevada's troops to perform military service for the United States.

The history of this expenditure and of this mode of enrollment of troops by the Territory of Nevada, and the economy and reasons therefor, are all fully set forth in a memorial to Congress signed by all the State officers of Nevada, which is printed in the appendix, marked Exhibit No. 4, page 29.

METHOD ADOPTED BY NEVADA TO PAY THE TROOPS CALLED INTO THE MILITARY SERVICE OF THE UNITED STATES BY THE TERRITORY OF NEVADA, AND THE EXTENT TO WHICH THE STATE OF NEVADA PLEDGED HER FAITH TO PAY THE OBLIGATIONS CONTRACTED BY THE TERRITORY OF NEVADA TO AID THE UNITED STATES.

This same act of the legislature of Nevada, among other things, provided that each citizen of Nevada so volunteering and enlisting as a private soldier for the military service of the United States, not being

drafted or acting as a substitute for another, should, during each and every month while honorably serving the United States, be paid out of the treasury of Nevada the sum of $5 per month, gold coin. It further provided that, in the case of an enlisted married man, an allotment of the whole or a portion of the extra monthly pay could be drawn by his family dependent upon him for support (see Laws of Nevada Territory, 1864, page 81, or appendix, Exhibit No. 5, page 31).

On March 11, 1865, after Nevada became a State, an act similar to this Territorial act, but more liberal in its provisions, was passed, to take the place of the Territorial law. The State legislature having deemed the situation so important to maintain the good faith of the Territory, that had been pledged to aid the United States, it passed this act *over the veto of Governor Blasdel*, who alleged in his veto message his fear that the expense might exceed the constitutional limit, etc.

This act provided for the assumption and payment by the State of Nevada of all obligations of every kind that had been incurred and contracted to be paid by the Territory for the enlistments, enrollments, bounties, extra pay, etc., of volunteer soldiers that had been theretofore called into the military service of the United States. The bonds now outstanding and still due by Nevada, though at a smaller rate of interest than that named in the original issue and still drawing interest, were issued under the provisions of this latter act (see Statutes, Nevada, 1864–'65, page 389, or appendix, Exhibit No. 6, page 34).

RESULTS OF THE FOREGOING LEGISLATION BY NEVADA.

By these legislative enactments of Nevada substantial and effectual aid was given and guaranteed by Nevada, both as a Territory and State, to the Government of the United States in guarding its overland mail and emigrant route and the line of the proposed transcontinental railroad in furnishing troops during the war of the rebellion and for suppressing Indian hostilities and maintaining peace in the country inhabited by the Mormons, and for the common defense as contemplated in said circular letter of Secretary Seward along an exposed, difficult, and hostile Indian frontier, and then but sparsely populated. These enactments were fully known to the authorities of the United States and to Congress; they have ever been acquiesced in and met with the sanction and practical indorsement of the United States, in whose interest and for whose benefit they were made. As a partial compensation to these volunteers for this irregular, hazardous, and exposed service in the mountains and on the desert plains, and to aid them to a small extent to maintain families dependent upon them for support, first the Territory and afterwards the State of Nevada offered and paid this small stipend, never suspecting that the United States would not promptly and willingly respond when asked to re-imburse the same. These citizens of Nevada who volunteered and enlisted and did military service for the United States were compelled in many cases to abandon their employments, in which their wages were always lucrative and service continuous, so that nothing less than the individual patriotism of these volunteers enabled the Territory and State of Nevada to cheerfully and promptly respond to every call and requisition made upon them for troops by the United States.

The records of the War Department, in addition to what is already quoted and referred to in substantiation of the facts herein stated, are printed in the appendix, marked Exhibit No. 3, pages 24 to 29.

THE BASIS AND AUTHORITY OF NEVADA'S CLAIM AGAINST THE UNITED STATES AND THE PRECEDENTS IN SUPPORT THEREOF.

These enactments of Nevada both as a Territory and a State, and various acts done under them in and execution thereof, when complying according to her own methods with the various calls and requisitions of the United States for troops, have resulted in the expenditure of a large sum of money which constitutes the present claim of Nevada against the United States. The authority upon which this claim rests is found in the fourth section of the fourth article of the Constitution of the United States, which provides that—

The United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion, and, on application of the legislature, or of the executive (when the legislature can not be convened), against domestic violence.

And upon the latter part of the tenth section of the first article of the Constitution; which is as follows:

No State shall, without the consent of Congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.

And also upon the act of July 28, 1795, chapter 36, section 1, page 424, now section No. 1642, U. S. Revised Statutes, which provides that—

Whenever the United States are invaded or are in imminent danger of invasion from any foreign nation or Indian tribe, or of rebellion against the authority of the Government of the United States, it shall be lawful for the President to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action, as he may deem necessary to repel such invasion or to suppress such rebellion, and to issue his orders for that purpose to such officer of the militia as he may think proper.*

In reference to the foregoing the courts have held that—

When a particular authority is confided to a public officer, to be exercised by him in his discretion, upon an examination of the facts of which he is made the appropriate judge, his decision upon the facts in the absence of any controlling provision, is absolutely conclusive as to the existence of these facts (Allen *vs.* Blunt, 3 Story, U. S. Circuit Court Reports, 745).*

And again the supreme court of the State of New York (Hon. Chancellor Kent presiding as chief justice) held in the case of Vanderheyden *vs.* Young, 11 Johnson's New York Reports, 157, that—

It is a general and sound principle that when the law vests any person with a power to do an act, and constitutes him a judge of the evidence on which that act may be done, and at the same time contemplates that the act is to be carried into effect through the instrumentality of agents, the person thus clothed with power is invested with discretion and is *quoad hoc* a judge.

His mandates to his legal agents on his declaring the event to have happened will be a protection to those agents, and it is not their duty or business to investigate the facts thus referred to their superior, and to rejudge his determination.*

The United States Supreme Court in Martin *vs.* Mott, 12 Wheaton, 19, unanimously held—

That the authority to decide upon what occasions and upon what emergencies Federal calls should be made and Federal assistance given, "belongs exclusively to the President, and that his decision is conclusive upon all other persons."*

And Chief Justice Taney, in Luther *vs.* Borden, 7 Howard, referred approvingly to the opinion of the United States Supreme Court in Martin *vs.* Mott, as expressed in these words:

That whenever a statute gives a discretionary power to any person to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of those facts.*

*NOTE.—*The acts of heads of* Departments of the Government are in law the acts *of the President (Wilcox vs.* Jackson, 13 Peters., 498).

The obligations arising under these provisions of the Constitution and laws and decisions have been recognized by the Government from its foundation, as will fully appear from the authorities cited by Senator Dolph in a report made by him from the Senate Committee on Claims on February 25, 1885 (Forty-eighth Congress, second session), Report No. 1438. These authorities are printed in the appendix, marked Exhibit No. 7, page 37 *et sequiter*.

NEVADA'S DILIGENCE IN THESE PREMISES.

The State of Nevada has not slept upon her rights in any of these premises nor been guilty of any *laches*; on the contrary, at all proper times she has respectfully brought the same to the attention of Congress by memorials of her legislature and of her State authorities, and through her representatives in Congress. On March 29, 1867, her legislature first asked for the payment of the claims of the State by a joint resolution, which is printed in the appendix, marked Exhibit No. 8, page 64. And again, on February 1, 1869, the legislature of Nevada passed a memorial and joint resolution renewing her prayer in these premises, which is also so printed in the appendix, marked Exhibit No. 9, page 65.

The Journals of the United States Senate show that on March 10, 1868, the writer of this report presented the first-mentioned memorial and resolution to the Senate, accompanied with an official statement of the amount of the claims of the State referred to therein. These papers were referred to the Committee on Claims, but the records fail to show that any action was ever taken upon them. On May 29 of the same year the writer of this report introduced a joint resolution (S. 138) providing for the appointment of a board of examiners to examine the claims of the State of Nevada against the United States, and on June 18 of the same year the Committee on Claims, to whom this joint resolution was referred, was discharged from its further consideration. The official statement of the moneys expended by the State of Nevada on account of the United States, and presented to the Senate on March 10, 1868, can not now be found on the files of the Senate.

On February 11, 1885, and January 26, 1887, the legislature of Nevada, renewing its prayer for a re-imbursement of the money by her expended for the use and benefit of the United States, further memorialized Congress, asking for the settlement of her claims, which are printed in the appendix and marked Exhibits Nos. 10 and 11, pages 65 and 66.

PROCEEDINGS IN CONGRESS TO REDEEM THE OBLIGATIONS OF THE UNITED STATES DUE TO NEVADA IN THIS CASE.

The circumstances under which these expenditures were made by the Territory and State of Nevada being exceptional, and their re-imbursement not being provided for by any existing law, general or special, Senator Fair, of Nevada, on December 13, 1881, introduced a joint resolution in the Senate providing for the equitable adjustment of these claims of Nevada now under consideration, which was referred to the Committee on Military Affairs. A copy of said resolution will be found in the appendix, marked Exhibit 12, page 67.

This committee, instead of reporting back this joint resolution, reported back a substitute in the form of a bill providing for the payment of the claims of several States and Territories, including the State of Nevada, and which bill finally resulted in the act of June 27, 1882 This bill was reported on May 12, 1882, by Hon. L. F. Grover, and

Nevada believed then and believes now that it was then the intention of Congress to equitably and explicitly provide for the re-imbursement to her of the amount of money which she had actually and in good faith expended in these premises. This bill was accompanied by a report in which the following statement is made in relation to the claims of the State of Nevada:

NEVADA.

It appears by the report of the Adjutant-General U. S. Army, of February 25, 1882, that one regiment of cavalry and one battalion of infantry were raised in the late Territory of Nevada during the late war of the rebellion, and that the expenses of raising, organizing, and placing in the field said forces were never paid by said Territory, but were assumed and paid by the State of Nevada, and that none of said expenses so incurred by said Territory, and assumed and paid by said State, have ever been re-imbursed the State of Nevada by the United States, and that no claims therefor have ever been heretofore presented by either said Territory or said State for audit and payment by the United States. Under section 3489 of the Revised Statutes, hereinbefore referred to, the payment of these claims is barred by limitation.

These forces were raised to guard the overland mail route and emigrant road to California, east of Carson City, and to do other military service in Nevada, and were called out by the governor of the late Territory of Nevada upon requisitions therefor by the commanding general of the Department of the Pacific, and under authority of the War Department, as appears by copies of official correspondence furnished to your committee by the Secretary of War and the general commanding the Division of the Pacific. * * *

PRESENTATION BY NEVADA TO THE UNITED STATES OF HER CLAIM.

This bill reported from this committee having become a law in an amended form on June 27, 1882, thereupon the governor and controller of the State of Nevada transmitted to the Secretary of the Treasury and Secretary of War a detailed account of the moneys actually expended and actual indebtedness assumed and paid by the State of Nevada on account of the volunteer military forces enrolled by the Territory and State of Nevada, as shown by the books of the State controller.

This statement of the claim of Nevada against the United States was prepared with great care by the proper officers of the State of Nevada, being first submitted by them to the legislature thereof in printed form at the expense of the State, and thereafter transmitted, as above stated, with proper original vouchers and evidence of every kind then in her possession, to the authorities of the Government of the United States and as provided for in said act of June 27, 1882. This statement is printed in the appendix, marked Exhibit No. 13, page 67.

DELAY OF THE UNITED STATES IN THE EXAMINATION OF NEVADA'S CLAIM AND THE CAUSES THEREOF.

This claim, with said vouchers and evidence, was first presented to the Secretary of the Treasury in 1883, where, being properly stamped, it was duly transmitted to the Secretary of War for examination and action thereon. It remained of record in the War Department unacted on up to and after August 4, 1886, because, as was stated to Congress by Hon. Robert T. Lincoln, Secretary of War, he required the aid of a board of at least three army officers to assist his Department in such examination, and he requested Congress to make an appropriation of $25,000 to defray the expenses of the examination of the different State and Territorial claims presented under the act of June 27, 1882. Congress delayed action upon these requests of the Secretary of War until August 4, 1886, on which date acts were passed providing for said board of

army officers, as asked for, and also appropriated $10,000 to defray the expenses of said examinations (see vol. 24, Stats. at Large, pages 217 and 249.)

SECRETARY LINCOLN'S CONSTRUCTION OF THIS ACT OF JUNE 27, 1882, FOR THE RELIEF OF NEVADA, ETC.

Prior to any action by the War Department on this claim of the State of Nevada, and prior to any action by Congress on the request of the Secretary of War for a board of Army officers to examine said claim, a bill was introduced in Congress by Senator Jones, of Nevada, and referred to the Secretary of War for report, providing for the payment of certain individual claims of citizens of Nevada on account of Indian hostilities in Nevada in 1860, upon which the Secretary of War reported as follows:

WAR DEPARTMENT,
Washington City, January 26, 1884.

SIR: In response to so much of your communication of the 22d ultimo as requests information concerning Senate bill 657, "to authorize the Secretary of the Treasury to adjust and settle the expenses of Indian wars in Nevada," I have the honor to invite your attention to the following report of the Third Auditor of the Treasury, to whom your request was duly referred:

"The State of Nevada has filed in the office abstracts and vouchers for expenses incurred on account of raising volunteers for the United States to aid in suppressing the late rebellion amounting to $349,697.49, and for expenses on account of her militia in the 'White Pine Indian war' of 1875, $17,650.98. Also, expenses of her militia in the 'Elko Indian war' of 1878, amounting to $4,654.64, presented under act of Congress approved June 27, 1882 (22 Statutes, 111, 112).

"These abstracts and vouchers will be sent to your Department for examination and report as soon as they can be stamped, as that statute requires a report from the Secretary of War as to the necessity and reasonableness of the expenses incurred. This statute is deemed sufficiently broad enough to embrace all proper claims of said State and Territory of Nevada."

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. S. B. MAXEY,
Of Committee on Military Affairs, United States Senate.

In accordance with this letter the Committee on Military Affairs reported back the bill referred to (S. 657), and asked that it be indefinitely postponed, and because of the explanation made by said committee, as follows, to wit:

It will be observed that it is deemed by the War Department that the act approved June 27, 1882, is sufficiently broad to embrace all proper claims of Nevada, whether as State or Territory.

For convenience of reference the above act accompanies this report, and an examination thereof, and of the construction thereon, satisfies the committee that no additional legislation is necessary.

The State of Kansas presented her claim to Secretary Lincoln under this act, which claim was by him examined, audited, and allowed for almost exactly the sum that Kansas had actually expended for the use and benefit of the United States, and all of which allowance has since been paid to Kansas by the United States, and aggregating the sum of $332,308.13 (23 U. S. Stats., 474).

AFTER OVER FOUR YEARS DELAY, SUBSEQUENT TO THE PASSAGE OF THE ACT OF JUNE 27, 1882, THE UNITED STATES TAKES UP NEVADA'S CLAIM FOR EXAMINATION, WHEN THE VERY FIRST QUESTION RAISED IS ONE OF JURISDICTION, AND WHICH IS DECIDED AGAINST NEVADA.

After the passage of said act of August 4, 1886, the War Department detailed a board of three Army officers under Special Orders No. 252,

dated October 6, 1886, to proceed to examine the claims arising under the act of June 27, 1882, and in the manner contemplated and as provided for in said acts. The claim of the State of Nevada was the first claim submitted to and examined by said board. This board being in doubt whether, under the terms of said act of June 27, 1882, they could allow a re-imbursement to Nevada of the amount by her expended for interest and extra pay to her troops while in the military service of the United States, referred these two questions to the Secretary of War for his decision. On February 8, 1887, after argument was submitted to him in support of these two elements of Nevada's claim against the United States, the Secretary of War decided "that after a careful consideration of the subject" he was "of opinion that neither the extra pay nor the interest can, under the provisions of the act, be allowed," meaning the act of June 27, 1882, and refused the same (see appendix, Exhibit No. 14, page 83).

TWO SEPARATE REPORTS (A MAJORITY AND MINORITY) MADE BY THE ARMY BOARD OF WAR CLAIMS EXAMINERS, THE MINORITY REPORT ALLOWING ONLY ABOUT 2½ PER CENT. OF THE AMOUNT ACTUALLY EXPENDED BY NEVADA, AND WHICH MINORITY REPORT IS APPROVED BY THE SECRETARY OF WAR.

It will be borne in mind that on January 26, 1884, Secretary Lincoln was of opinion that the act of June 27, 1882, was sufficiently broad to embrace all proper claims of the State of Nevada, and the Committee on Military Affairs, in consequence thereof, reported to the Senate that that committee was satisfied that no additional legislation was necessary in regard thereto, while Secretary Endicott, on February 8, 1887, decided that the claims for expenditure for interest and extra pay to said troops while in the service of the United States could not be allowed by him under said act, and further, by approving the award made by the minority examiner, and, as will hereinafter be more particularly referred to, also disallowed the amount expended by Nevada and by her paid as her costs for the enrollment of those very troops so called into the service of the United States.

The day following the decision of the Secretary of War, to wit, February 9, 1887, and contrary to a practice usual in similar cases, said board of Army officers, instead of submitting one report to the Secretary of War, submitted two separate and independent reports, one signed by the majority of said board and the other in the nature of a minority report. These two reports are submitted herewith, and printed in the Appendix, marked Exhibits Nos. 15, 16, and 17, pages 89 to 90.

The total of this particular claim of the State of Nevada so presented to said board amounted to $349,697.49. The amount thereof that was allowed in said minority report was only $8,559.61. This minority report was approved by the Secretary of War, thereby disallowing or suspending all of Nevada's claim except the paltry sum of about 2½ per cent. of the money actually expended by Nevada for troops called into the service of the United States and at the urgent solicitation of the Government of the United States in its hour of need, while this same board allowed nearly $1,000,000 of the claim of Texas, to wit, $927,242.30, being about 50 per cent. of the claim of that State of $1,867,259.13, as presented for re-imbursement for the expenses of her Indian wars, which occurred since the rebellion, and prosecuted chiefly, if not solely, for the protection of the inhabitants of the State of Texas. It is worthy of remark that no minority report was submitted in the case of Texas.

It will be observed by a perusal of the reports of the board of war claims examiners that the great mass of this claim of the State of Nevada for re-imbursement for moneys, expended under very extraordinary circumstances, was rejected by the board of examiners on either purely technical grounds or for an alleged want of jurisdiction to make an award under what has since been admitted and found to be the most restrictive act that was ever drawn since 1789 intended as an "act of relief."

Only $8,559.61 was finally awarded to Nevada by the Secretary of War.

The want of specific information on the part of the officer making the minority report which reduced the amount of the claim to the sum named may be shown in part by the mistakes made in reference to the statutes of Nevada, which are in several public libraries here, and could have been easily examined. For example, he seems to have inferred that the act of the Nevada legislature of March 4, 1865, was the first act of the Territory providing for the organization of its militia, whereas, as we have already shown, there was an elaborate act for that purpose passed by the Territorial legislature as early as November 28, 1861, and apparently on the assumption that there was no law creating the office of adjutant-general prior to 1865, and upon the fact that no evidence was furnished that Nevada previous to April 2, 1863, had soldiers, that therefore the salary of that officer ought not to commence prior to the time when the volunteers were actually called for service into the Army. But it will be observed that he was mistaken as to the time the law was passed creating the office of adjutant-general. The second section of the act of November 28, 1861, provides that—

> The adjutant-general shall be appointed by the commander-in-chief, and shall hold his office for the term of two years. He shall be *ex officio* chief of staff, quartermaster-general, commissary-general, inspector-general, and chief of ordnance. He shall receive a salary of $1,000 annually, to be paid out of moneys appropriated for that purpose. He shall reside at the seat of government, and shall keep his office open for the transaction of business every day (Sundays excepted) from 10 o'clock a. m. to 3 o'clock p. m.

The minority examiner is again mistaken if he assumed that the secretary of state of Nevada became *ex officio* adjutant-general on March 3, 1866. It is true that an act devolving the duties of adjutant-general upon the secretary of state was passed on that date, but the second section of said act provides that—

> This act shall take effect and be in force from and after the first day of January, 1867 (Stats. Nev., 1866, p. 206).

Thus it appears that the secretary of state did not in fact or in law become *ex officio* adjutant-general until January 1, 1867. The original section of the militia law of 1861 in regard to the office of adjutant-general was afterward amended, changing the length of time that officer was to hold office and increasing his salary to $2,000 per annum, but the abolishment of the office did not take effect until January, 1867.

PROBABLY CONFOUNDING THE ACT OF JUNE 27, 1882, WITH THE ACT OF JULY 27, 1861.

The minority examiner in terminating the salary of adjutant-general on August 20, 1866, undoubtedly had in mind the act of July 27, 1861, and not the act of June 27, 1882, under which last act alone said board was authorized to make an examination and award; otherwise he would not have limited the salary to August 20, 1866, the end of the war of the rebellion, as heretofore officially declared, but would have certainly al-

lowed Nevada a re-imbursement for the money actually paid by her as salary to that officer until his services terminated, and the Indian wars on the plains were actually suppressed and the office of adjutant general abolished, which was done on December 31, 1866, since which time either the secretary of state or lieutenant-governor has acted as *ex officio* adjutant-general.

Attention is called to these discrepancies simply to show that the minority examiner apparently fell into error, unintentionally, of course, in his examination of the statutes of Nevada, or failed to consider all the circumstances under which this claim of the State arose. The majority of the board who made the same award and allowance as the minority, with the exception of $1,233.50 for salary of adjutant-general prior to the time when the troops were mustered in the service, made a very thorough examination of all the vouchers showing each item of expenditure made by the State, and this examination may be assumed as correct and as establishing the fact that the State expended all the moneys for which this claim is made, leaving the question as to the liability of the Government to re-imburse the State to the discretion of Congress. There is but one item stated in the account by the board of examiners which appears to have been charged by mistake. It was undoubtedly paid by the State, but if the board are correct, it was such a palpable mistake of the State officers that the State ought to lose it. It was a double charge for rent, amounting to $38.33. This amount, together with the $8,559.61 allowed by the minority of the board of examiners, and already paid to the State, making a total of $8,597.94, should be deducted from the claim now presented by the State. The State, however, should have the benefit of the fact that no other error in the accounts was discovered. All the other disallowed claims were rejected, not because the State did not pay the money, but because the board of examiners thought they were not authorized to allow the same under the act of June 27, 1882. We print in the appendix, Exhibit No. 17, page 92, the table accompanying report of the majority of the board of war claims examiners showing the amounts allowed and disallowed, together with the reasons therefor.

The question is now presented in this case whether it is the duty of the Government to re-imburse the State for moneys honestly expended, at the request of the United States, under circumstances which rendered it impossible for the Territory and State of Nevada to comply with such request without making the expenditures in question. It must be conceded that if the State or Territory made larger expenditures than would have been required to secure like services in any other section of the country, the services secured by these expenditures at the time, place, and under the circumstances were a necessity and could not have been furnished by the State on more favorable terms, and it seems that the State and Territory did not make any expenditure that appeared at the time unnecessary.

WHAT NEVADA THOUGHT WAS INTENDED BY CONGRESS TO BE AN ACT FOR HER RELIEF AND BENEFIT IS NOW FOUND TO BE AN ACT "SO WELL AND CAREFULLY AND CLOSELY GUARDED" BY RESTRICTIONS THAT WHEN CONSTRUED BY THOSE CALLED UPON TO EXECUTE IT, IS FOUND TO BE INOPERATIVE AS A RELIEF MEASURE, AND A PRACTICAL DENIAL OF JUSTICE.

We fully concur with the officer who made the minority report, that "*the restrictions imposed* in the second section of the act of June 27,

1882, have been complied with as far as was possible," whatever question there may be as to his complying with the provisions of the act itself. The argument that the Government might have bought supplies cheaper under its contract system than were furnished in Nevada is one which your committee are unwilling to urge under the circumstances. The Government was not situated so as to obtain troops or supplies by contract or otherwise, but was compelled to call upon the Territory to furnish both troops and supplies. All prices of all supplies, and also of all services, at that time in Nevada were on a gold basis, and coin was the only circulating medium. The roads over the mountains were blocked by snow and no considerable amount of supplies could be transported over them. The supplies in the Territory had been carried there during the previous summer for the use of the inhabitants, and the troops had to be furnished from the limited stock of individuals found in the Territory, and at a moment's notice. The Government could not wait to advertise. The overland mail route was closed and immediate action was required. The cheapest, most effective, and in fact the only immediate relief that could be had was furnished by the militia and volunteer troops of Nevada, who, leaving their workshops and employments of every character, and the high wages for their services, were organized and marched immediately in the direction of Salt Lake City to open the mail and emigrant route. They subsequently joined General Conner's forces from California, subdued the Indians, fortified Camp Douglas, overlooking Salt Lake City, and were in the field, subject to call, to go wherever ordered or needed.

PAYMENT BY THE UNITED STATES OF ABOUT 2½ PER CENT. OF THIS CLAIM ON ACCOUNT IS NOT A VALID BASIS FOR THE UNITED STATES TO REPUDIATE THE BALANCE THEREOF, OR TO REFUSE TO PAY THE SAME, AND SHOULD NOT, IN GOOD CONSCIENCE, BE EVER PLEADED BY AN HONEST DEBTOR, FOR WHOSE RELIEF AND AT WHOSE URGENT SOLICITATION SUCH DEBT WAS INCURRED.

The fact that a small fraction only of this claim has been allowed and paid on account, to wit, about 2½ per cent., and the great bulk thereof rejected for want of jurisdiction only, is no valid objection to an authorization by Congress for the payment of what is honestly due the State of Nevada, and for this there are numerous precedents, some of which are cited in the appendix in Exhibit No. 18, pages 96 to 98.

"INTEREST" PAID IN THIS CASE BY NEVADA IS IN REALITY, IN JUSTICE, IN REASON, AND IN LAW A PROPER PART OF THE DEBT DUE NEVADA BY THE UNITED STATES, THE PAYMENT OF WHICH, TOGETHER WITH THAT OF THE PRINCIPAL IS NECESSARY TO A COMPLETE INDEMNITY.

The embarrassments under which Nevada paid the principal of the money involved in this claim is shown by the enormous rates of interest which the Territory and State were compelled to pay in order to raise money to fully comply with these calls and requisitions made for troops and as hereinbefore recited. The rates of interest which were actually paid by Nevada are shown by the official statement of her controller and as furnished to the Secretary of the Treasury and the Secretary of War, as before stated, as follows:

ABSTRACT G.—*Showing the amount actually paid by the State of Nevada and as successor to the Territory of Nevada on account of interest money on disbursements and liabilities for Nevada volunteers in the service of the United States, and employed in the defense of the United States during the war of the rebellion.*

	Amount.
First—Interest paid on $46,950.12 from February 10, 1865, to March 3, 1866, at 2 per cent. per month [See acts legislature of Nevada for 1864–'65, page 82, act January 4, 1865.]	$11,925.32
Second—Interest paid on $46,950.12 from March 3, 1866, to May 30, 1867, at 15 per cent. per annum [See acts legislature of Nevada for 1866, page 47, act January 19, 1866.]	8,744.46
Third—Interest paid on $119,800.12 from May 30, 1867, to March 28, 1872, at 15 per cent. per annum [See acts legislature of Nevada for 1867, pages 50 and 65, act February 6, 1867.]	86,755.25
Fourth—Interest paid on $119,800.12 from March 28, 1872, to January 1, 1883, at 9½ per cent. per annum [See acts legislature of Nevada for 1871, page 84, act February 27, 1871.]	122,472.33
	229,897.37

Your committee, however, deem it unwise to establish a precedent under any circumstances, however extraordinary, and they admit that the recitals in support of this claim render it one extraordinary in character, of refunding interest to the full extent as paid by the Territory and State of Nevada, and as shown by the foregoing statement. The legal rate of interest of the Territory and State of Nevada was, at all the times herein stated, 10 per cent. per annum where no different rate was fixed by contract.

Your committee therefore do not feel warranted in recommending re imbursing the State of Nevada for a higher rate of interest than the legal rate fixed by her own statutes during the period of time in which these disbursements were made, and including the period up to the date of the re-imbursement of the principal by the United States, and for that reason they have incorporated in this bill, herewith reported, a provision that the aggregate of interest accruing to Nevada between the date of the expenditure by her of the principal and of the date of the re imbursement of such principal by the United States shall not exceed the actual amount of interest paid by the State and Territory, nor the amount of interest which would accrue to her on said principal if interest thereon were calculated during said period at the legal rate as established by the statutes of the Territory and State of Nevada. In support of the proposition that interest and principal are simply but two elements of one and the same unit and constituting a complete indemnity, your committee cite Senate Report 1069, made by Senator Spooner during the first session of the Forty-ninth Congress from the Committee on Claims (see appendix, Exhibit No. 19, pages 98 to 109.)

PRECEDENTS FOR THE PAYMENT TO STATES OF INTEREST ON THE PRINCIPAL BY THEM EXPENDED FOR THE USE AND BENEFIT OF THE UNITED STATES UNDER SIMILAR CIRCUMSTANCES.

The United States has in all cases, where the question has been properly presented, re-imbursed States for interest paid by such States on moneys by them borrowed and expended for the purpose of either enrolling, subsisting, clothing, supplying, arming, equipping, paying, furnishing, or transporting volunteer and militia forces called into the service of the United States. If it be suggested that the bill under consideration providing for the payment of both principal and interest is against precedent, we answer that, in the opinion of your committee, it is the better

practice to deal with a case in its entirety in a single act, and your committee state that there are abundant precedents for this practice, some of which your committee cite in the appendix, Exhibit 20 on page 109.

We call particular attention to the precedents collected in the appendix, authorizing the payment of claims of States for interest on moneys by them expended for the use and benefit of the United States (see appendix, Exhibits Nos. 18, 19, 20, and 21, pages 96 to 149).

In addition to the authorities cited in the appendix in support of Nevada's claim for interest, your committee also refer to the case before the Second Comptroller of the Treasury in 1869, in which that officer made the following decision:

> Interest can in no case be allowed by the accounting officer upon claims against the Government either in favor of a State or an individual. But in cases where the claimant has been compelled to pay interest for the benefit of the Government, it then becomes a part of the principal of his claim, and as such is allowable. Such is the case of a State which has been obliged to raise money upon interest for the suppression of hostilities against which the United States should protect her. In such cases the amount of interest actually and necessarily paid will be allowed, without reference to the rate of it (section 997, Dec. 2, Comp. Ed. 1869, p. 137).

This ruling is in harmony with a long line of precedents established by Congress, beginning in 1812, and printed in the appendix hereto attached and marked Exhibit Nos. 18 to 21, inclusive, pages 96 to 145.

In addition to the foregoing, your committee cite in support of Nevada's claim for interest the following, to wit:

1. Forty-eighth Congress, first session, House Report No. 1670, from Committee on Judiciary (see appendix, Exhibit 21, page 112).
2. Forty-eighth Congress, second session, House Report No. 1102, from Committee on War Claims (published in Exhibit No. 14, page 86).
3. Forty-ninth Congress, first session, Senate Report No. 183, from the Committee on Military Affairs (see appendix, Exhibit 21, page 135).
4. Forty-ninth Congress, first session, Senate Report No. 2, from the Committee on Claims (published in Exhibit No. 14, page 85).
5. Forty-ninth Congress, first session, House Report No. 303, from Committee on Claims (see appendix, Exhibit 21, page 119).
6. Forty-ninth Congress, first session, House Report No. 3126, from Committee on Claims (see appendix, Exhibit 21, page 120).
7. Fiftieth Congress, first session, Senate Report No. 518, from the Committee on Military Affairs (see appendix, Exhibit 21, page 138).
8. Fiftieth Congress, first session, House Report No. 309, from the Committee on War Claims (see appendix, Exhibit 21, page 137).
9. Fiftieth Congress, first session, House Report No. 1179, from the Committee on Claims (see appendix, Exhibit 21, page 145).
10. Fiftieth Congress, first session, House Report No. 2198, from the Committee on War Claims (see appendix, Exhibit 21, page 144).

The precedents cited or referred to in the appendix herewith abundantly establish the fact that the United States has paid the claims of States incurred under circumstances such as those in which Nevada ex-

pended her money for the benefit of the United States, and that in all cases properly presented to Congress, where the States were compelled to borrow money and pay interest thereon and expended the same for the use and benefit of the United States, that either at the time of providing payment for the principal or subsequently the United States has invariably assumed and paid such interest.

As before stated, the claim of the State of Nevada, provided for in this bill, has been thoroughly examined by a board of Army officers appointed for that purpose. The evidence upon which this claim was founded was submitted to said board, and the evidences of payment found by them to be correct; but said board of war-claims examiners, while finding these facts, did not, under the very restrictive and prohibitory provisions and conditions of the acts of June 27, 1882, and August 4, 1886, recommend an award to Nevada of the amount of money which they found that Nevada had actually expended for the use and benefit of the United States and in the manner as set forth in the claim as presented by Nevada for the examination of and allowance by the Treasury and War Departments; and under the terms of these acts, as construed and declared by the Secretary of War, the proper accounting officers of the Treasury could not allow Nevada any sum, either as principal or interest, not allowed by the War Department as assisted by said Army board of war-claims examiners.

COST OF TRANSPORTATION OF ARMY SUPPLIES FROM FORT LEAVENWORTH WESTWARD IN 1864-'66.

It is evident that the supplies and services furnished could not at the times and places have been obtained on more reasonable terms. And in support of this statement your committee refer to the report of the Secretary of War made during that period, and in reference to a region of country much more favorably situated than was even Nevada at that time, to wit:

The troops operating on the great western plains and in the mountain regions of New Mexico, Colorado, Utah, and Idaho are supplied principally by the trains of the Quartermaster's Department from depots established on the great routes of overland travel, to which depots supplies are conveyed by contract. * * *

Travelers by the stage from Denver to Fort Leavenworth, a distance of 683 miles, in the month of July, 1865, were never out of sight of wagons trains belonging either to emigrants or to the merchants who transport supplies for the War Department, for the Indian Department, and for the miners and settlers of the central Territories.

The cost of transportation of a *pound* of corn, hay, clothing, subsistence, lumber, or any other necessary from Fort Leavenworth—

To Fort Riley is	$0.0244
To Fort Union, the depot for New Mexico	.1425
To Santa Fé, N. Mex	.1685
To Fort Kearny	.0644
To Fort Laramie	.1410
To Denver City, Colo	.1542
To Salt Lake City, Utah	.2784

The cost of a bushel of corn purchased at Fort Leavenworth and delivered at each of these points was as follows:

Fort Riley	$2.79
Fort Union	9.44
Santa Fé	10.84
Fort Kearny	5.03
Fort Laramie	9.26
Denver City	10.05
Great Salt Lake City	17.00

(Secretary of War's report, 1865-'66, part 1, pages 23 and 112; also see General *Halleck to Adjutant-General*, and General McDowell to Adjutant-General U. S. Army, *report of Secretary of War*, October 18, 1866, pages 31 and 32.)

This table is cited to show the costs of maintaining troops in that section of the country, and also to show the comparative costs of furnishing troops and supplies in Nevada and the points immediately east thereof during the periods of time involved herein.

The details concerning the peculiar and difficult and expensive service on the plains and mountains by the troops doing military service, similar in all respects to those performed by these Nevada volunteers, are fully set forth in the report of the Secretary of War respecting the protection of the overland mail and emigrant route to the Pacific from the molestations and depredations by hostile Indians, and set forth in Ex. Docs. Nos. 9 to 24, second session Thirty-ninth Congress, 1866–'67.

CONCLUSIONS AND RECOMMENDATIONS.

Nevada has not demanded a bounty, nor presented a claim against the United States for re-imbursement of any expenditure she did not in good faith actually make for the use and benefit of the United States, and made, too, only subsequent to the date of the aforesaid appeal of Secretary Seward to the nation, and made, too, in consequence of said appeal and of the subsequent calls and requisitions made upon her then scanty resources and sparse population, and wherein the good faith of the United States was to be relied upon to make to her ungrudgingly a just re-imbursement whenever the United States found itself in a condition to redeem all its obligations.

Nevada has been diligent in making her claim known to Congress, but she has not with an indecorous speed demanded her pound of flesh, but has waited long and patiently, believing upon the principle that the higher obligations between States, like those among men, are not always "set down in writing, signed and sealed in the form of a bond, but reside rather in honor," and that the obligation of the United States due her in this case was as sacred as if it had originally been in the form of a 4 per cent. United States bond, now being redeemed by the United States at $1.27 upon each $1 of this particular form of its unpaid obligations.

Nevada has not solicited any charity in this case, but, on the contrary, by numerous petitions and memorials she has respectfully represented to Congress why the taxes heretofore levied upon her people and paid out of her own treasury to her volunteer troops in gold and silver coin to aid the United States at its own solicitation to protect itself and maintain the general welfare should be now returned to her by the General Government.

Congress should not forget that during the long period of the nation's peril the citizens of Nevada, like those of California (when not engaged in the military or naval service of the United States) not only guarded the principal gold and silver mines of the country then discovered, and prevented them from falling into the hands of the public enemy, but also worked them so profitably for the general welfare as to enable the United States to make it possible to resume specie payment, and to redeem its bonds at 27 per cent. above par, and to repay all its money-lenders at a high rate of interest, and that, too, not in the depreciated currency with which it paid Nevada's volunteer troops, but in gold coin of standard value.

As these expenditures were honestly made by the Territory and State of Nevada, your committee do not think that, under all the peculiar and exceptional circumstances of this case, the action of the Territory and State of Nevada should be hewn too nicely or too hypercritically by the United States at this late date. These expenditures were

all made in perfect good faith and for patriotic purposes, and secured effectual aid to the United States which otherwise could not have been obtained without a much larger expenditure. The State of Nevada in good faith assumed and paid all the obligations of the Territory of Nevada to aid the United States, and issued and sold its own bonds for their payment, upon which bonds it has paid interest until the present time. The only question now for consideration is, shall the United States in equal good faith and under all the circumstances herein recited relieve the State of Nevada from this obligation, or shall the United States insist and require it to be paid by the people of that State alone?

CALIFORNIA.

The total amount paid by California, as shown by said report of said war claims examiners, is $4,420,891.96. Of this amount $1,500,545.86 was interest, and $468,976.54 was expended on account of militia. Deducting these amounts and we have the expenditure of California, excluding interest and expenses of militia, $2,451,369.56.

OREGON.

The total amount paid by Oregon, as shown by said report of said war claims examiners, is $356,271.61. Of this amount $110,626.35 was interest, and $21,118.73 was expended on account of militia. Deducting these amounts and we have the expenditure of Oregon, excluding interest and expenses of militia, of $224,526.53.

NEVADA.

The total amount paid by Nevada as principal and interest, as shown by said report of said war claims examiners, is $404,040.70.

With these amendments your committee therefore recommend the passage of this bill, which, so amended, is as follows, to-wit:

A BILL to re-imburse the States of California, Oregon, and Nevada for moneys by them expended in the suppression of the rebellion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sums hereinafter mentioned to re-imburse and to be paid to the States of California, Oregon, and Nevada for moneys by them expended in aid of the United States in the war of the rebellion, to wit:

To the State of California, the sum of two million four hundred and fifty-one thousand three hundred and sixty-nine dollars and fifty-six cents.

To the State of Oregon, the sum of two hundred and twenty-four thousand five hundred and twenty-six dollars and fifty-three cents.

To the State of Nevada, the sum of four hundred and four thousand forty dollars and seventy cents, being the sums of money shown by the reports of the Secretary of War to have been paid by said States in the suppression of the rebellion.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 255.

CHINESE IMMIGRATION.

FEBRUARY 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. STUMP, from the Committee on Immigration and Naturalization, submitted the following

REPORT:

[To accompany H. R. 5809.]

The Committee on Immigration and Naturalization, to whom was referred the House bill 4575 after giving careful consideration to the subject have agreed upon a substitute for said bill, which substitute is herewith returned. This committee recommend its passage and further respectfully report.

There is urgent necessity for prompt legislation on the subject of Chinese immigration. The exclusion act approved May 6, 1882, and its supplement expires by limitation of time on May 6, 1892, and after that time there will be no law to prevent the Chinese hordes from invading our country in number so vast, as soon to outnumber the present population of our flourishing States on the Pacific slope.

When we consider the dense population of the Chinese Empire, now estimated at over 400,000,000 and constantly increasing, it becomes apparent that emigration from that country is becoming a necessity and that that Empire could send millions of its people to other lands and thereby improve the condition of those remaining at home. Of all other lands the Chinaman looks with longing eyes to the rich mines and fair fields of this country. The wages paid for labor and the bountiful harvest that awaits the frugal and industrious excites their cupidity. So great is their desire to make this country a temporary home, where in a few years they can accumulate enough to live the balance of their lives in China in comparative ease, that they have resorted to tricks and devices by which they have evaded the exclusion acts heretofore passed, and unless legislation is clear, definite, strict, and highly penal, with certainty of conviction when violated, and promptly and rigidly enforced, their intelligence and shrewdness will find some means to evade it.

The act of 1882, now about to expire, at first seemed to remedy the evil from August, 1882, to January, 1883, there being only 39 arrivals at the port of San Francisco, but in 1883, there were 3,014 arrivals, in 1884, 6,602, in 1886, 9,049, and from January 1 to October 1, 1888, 18,838, which is enough to show that by some clever device the laws were evaded. The most usual modes were, pretending that they were native-born American citizens, or that they were Chinese merchants resident in the United States, returning and therefore entitled to land. By the testimony taken before this committee of the Fifty-first Congress at San Francisco in December, 1891, pages 272–278, it was shown that 95 per cent of these pretenses were fraudulent; but by a well or-

ganized, prearranged scheme, writs of habeas corpus were sworn out (as many as 7,000 writs in nine months of the year 1888, and since then up to December, 1891, 1,992) and bail bonds given with worthless sureties for appearance at court. Of these cases 65 per cent were ordered deported, and not 5 per cent could be found to be sent back; so that the forms of law were resorted to, to unlawfully land these excluded people, to the great expense of the Government which was called upon to pay for the evasion of its own laws. Hence your committee look with much favor upon the provision of this law giving to the collector of the port and certain officials therein designated the right to detain Chinese persons until they hear and determine the question touching their right to land, and the right to deport them to China, with an appeal to the Superintendent of Immigration, subject to review by the Secretary of the Treasury.

In the case of Nishimura Ekin, appellant, *vs.* The United States and Charles A. Garter, upon a petition for writ of habeas corpus, recently decided and not yet reported, the Supreme Court of the United States decides that a similar provision of the law relating to immigration other than Chinese, approved March 3, 1891, was constitutional. It was held—

> That every sovereign nation has the power, as inherent in sovereignty and essential to self-preservation, to forbid the entrance of foreigners within its domains, or to admit them only upon such conditions as it may see fit to prescribe. That the supervision of the admission of aliens into the United States may be intrusted by Congress to the Department of the Treasury. That the final determination of the facts in the case may be intrusted by Congress to executive officers, and in such a case, as in all others in which a statute gives a discretionary power to an officer to be exercised by him upon his own opinion of certain facts, he is made the sole and exclusive judge of the existence of those facts, and no other tribunal, unless expressly authorized by law to do so, is at liberty to reëxamine or controvert the facts upon which he acted. That the decision made by the inspector of immigration in that case was final and conclusive, and that the petitioner was not unlawfully restrained of her liberty.

By making a similar provision in this Chinese immigration act we place ourselves under the protection of this decision, and by depriving the petitioner of the right to give bail pending the hearing and determination of the case, it is to be believed that this mode of successfully landing Chinese, who are permitted subsequently to escape, will be effectually removed. The popular demand for legislation excluding the Chinese from this country is urgent and imperative and almost universal. Their presence here is inimical to our institutions and is deemed injurious and a source of danger. They are a distinct race, exclusive and seclusive. They come here with the sole purpose of saving from their earnings a few hundred dollars and returning with them to China. This they succeed in doing in from five to ten years by living in the most miserable manner, when in cities and towns in crowded tenement houses, surrounded by dirt, filth, corruption, pollution, and prostitution; and gambling houses and opium joints abound. When used as cooks, farm-hands, servants, and gardeners they are more cleanly in habits and manners. They, as a rule, have no families here; all are men, save a few women, usually prostitutes. They have no attachment to our country, its laws, or its institutions, nor are they interested in its prosperity. They never assimilate with our people, our manners, tastes, religion, or ideas. With us they have nothing in common.

Living on the cheapest diet (mostly vegetable), wearing the poorest clothing, with no family to support, they enter the field of labor in competition with the American workman. In San Francisco, and in fact

throughout the whole Pacific slope, we learn from the testimony heretofore alluded to, that the Chinamen have invaded almost every branch of industry; manufacturers of cigars, cigar boxes, brooms, tailors, laundrymen, cooks, servants, farm hands, fishermen, miners, and all departments of manual labor, for wages and prices at which white men and women could not support themselves and those dependent upon them. Recently this was a new country, and the Chinese may have been a necessity at one time, but now our own people are fast filling up and developing this rich and highly favored land, and American citizens will not and can not afford to stand idly by and see this undesirable race carry away the fruits of the labor which justly belongs to them. A war of races would soon be inaugurated; several times it has broken out, and bloodshed has followed. The town of Tacoma, in 1887, banished some 3,000 Chinamen on twenty-four hours' notice, and no Chinaman has ever been permitted to return.

Our people are willing, however, that those now here may remain, protected by the laws which they do not appreciate or obey, provided strong provision be made that no more shall be allowed to come, and that the smuggling of Chinese across the frontiers be scrupulously guarded against, so that gradually, by voluntary departures, death from sickness, accident, or old age, this race may be eliminated from this country, and the white race fill their places without inconvenience to our own people or to the Chinese, and thus a desirable change be happily and peacefully accomplished. It was thought that the exclusion act of 1882 would bring about this result; but it now appears that although at San Francisco the departures largely exceed the arrivals, yet the business of smuggling Chinese persons across the lines from the British Possessions and Mexico has so greatly increased that the number of arrivals now exceed the departures. This must be effectually stopped.

When we consider the many thousands of miles of frontier between us and British Columbia and Mexico to be guarded, the Puget Sound coast, the lakes, and St. Lawrence River, the many points thereon at short distances where these people might enter, it will appear that it would be almost impossible to patrol the whole line, even though the Government might be willing to incur the great expense. When you also consider the inability of those familiar with these people to recognize one from another, and the fact that those smuggled across the border immediately join a mining camp of their own people, where identification at once becomes impossible, it is apparent that some other method must be resorted to, to properly and efficiently execute this law of exclusion. Your committee has fully examined the provisions of this bill for a registration of all Chinese now here, and the granting of permits to those entitled, as the most economical and best way of accomplishing the object in view. By this means those who are entitled to be here are protected in their persons and property, and those unlawfully coming in are easily detected and transported.

It is in no hostile spirit to the Chinese now in this country that your committee have arrived at this conclusion, and recommend the passage of this law requiring this certificate before the Chinese can travel, engage in business, or obtain work, but to secure to those now residents immunity from molestation and to our own people the satisfaction of knowing that with these provisions the law preventing the smuggling of Chinese can be rigidly enforced. The Chinese are bright and intelligent, but cautious. Under the present law the most that

could happen to them if caught in the attempt to cross the line would be either being compelled to recross, when next day they would do the same thing, or deportation to China at the Government expense, which many desire. They will not attempt to come in after the passage of this act, where a certainty of detection awaits them, where without a certificate they can not travel about and get employment, and where, when arrested, they are sentenced to the penitentiary in default of fine and costs, and costs of deportation. There will be few arrests and few transportations to China, in the opinion of your committee.

The right of this Government to exclude all aliens who are a menace to its institutions, dangerous to its peace and prosperity, and corrupting in their influence, if not conceded, is established by our Supreme Court in the case just cited, and the right to abrogate and annul the provisions of any existing treaty by an act of Congress is also clearly established by many decisions of the same high tribunal, only one of which your committee will refer to in the case of Chan Ping, appellant, *vs.* United States, decided May 13, 1889. (U. S. Rept., 130, p. 581) involving the validity of the act of Congress approved October 1, 1888. It was held—

That the Government of the United States, through the action of the legislative department, can exclude aliens from its territory is a proposition which we do not think open to controversy. Jurisdiction over its own territory to that extent is an incident of every independent nation. It is a part of its independence. If it could not exclude aliens it would bet o that extent subject to the control of another power. As said by this court in the case of The Exchange (7 Cranch, 116, 136), speaking by ChiefJustice Marshall, "The jurisdiction of the nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. Any restriction upon it deriving validity from an external source would imply a diminution of its sovereignty to the extent of the restriction, and an investment of that sovereignty to the same extent in that power which could impose such restriction. All exceptions, therefore, to the full and complete power of a nation within its own territories must be traced up to the consent of the nation itself. They can flow from no other legitimate source."

The power of exclusion of foreigners being an incident of sovereignty belonging to the Government of the United States as a part of those sovereign powers delegated by the Constitution, the right to its exercise at any time when, in the judgment of the Government, the interests of the country require it, can not be granted away or restrained on behalf of any one. The powers of government are delegated in trust to the United States, and are incapable of transfer to any other parties. They can not be abandoned or released. Nor can their exercise be hampered when needed for the public good by any considerations of private interest.

The validity of this act, as already mentioned, is assailed, as being in effect an expulsion from the country of Chinese laborers in violation of existing treaties between the United States and the Government of China, and of rights vested in them under the laws of Congress. The objection that the act is in conflict with the treaties was earnestly pressed in the court below, and the answer to it constitutes the principal part of its opinion (36 Fed. Rep., 431.) Here the objection made is, that the act of 1888 impairs a right vested under the treaty of 1880, as a law of the United States, and the statutes of 1882 and of 1884 passed in execution of it. It must be conceded that the act of 1888 is in contravention of express stipulations of the treaty of 1868 and of the supplemental treaty of 1880, but it is not on that account invalid or to be restricted in its enforcement. The treaties were of no greater legal obligation than the act of Congress. By the Constitution, laws made in pursuance thereof and treaties made under the authority of the United States are both declared to be the supreme law of the land, and no paramount authority is given to one over the other. A treaty, it is true, is in its nature a contract between nations and is often merely promissory in its character, requiring legislation to carry its stipulations into effect. Such legislation will be open to future repeal or amendment. If the treaty operates by its own force, and relates to a subject within the power of Congress, it can be deemed in that particular only the equivalent of a legislative act, to be repealed or modified at the pleasure of Congress. In either case the last expression of the sovereign will must control.

Impelled by natural laws of self-preservation, and the protection of our own people, and the Chinese now in our midst, we deem it wise and prudent legislation to enact this law, and we ask for the passage of this bill.

The Chinese Government has much less reason than any other nation to complain of the exercise of this right. It has been their policy from the earliest ages to exclude all foreigners from their domains, and it is only within comparatively a few years that any special privileges have been allowed foreigners in that country and then only within circumscribed territorial limits.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT 255, Part 2.

CHINESE IMMIGRATION.

FEBRUARY 18, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. EPES, from the Select Committee on Immigration and Naturalization, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany H. R. 5809.]

The undersigned can not assent to the provisions and inhibitions of this bill for the reason that, in his judgment, they are inhospitable and harsh to a degree that does not comport with the spirit of our people or the laws of our country.

JAMES F. EPES.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 256.

SOCIETY OF THE COLONIAL DAMES OF AMERICA.

FEBRUARY 10, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. CUMMINGS, from the Committee on the Library, submitted the following

REPORT:

[To accompany H. R. 1519.]

The Committee on the Library, to whom was referred the bill (H. R. 1519) to incorporate the Society of the Colonial Dames of America, submit the following report:

The Society of the Colonial Dames of America was organized in the city of New York, May 23, 1890, and was the *first* society of women for purely patriotic purposes ever founded in this country. Its scope is much broader than any of the societies of women with kindred aims which have since been formed, in that it seeks to perpetuate the memory of the founders of the Colonies as well as the heroes of the Revolution. It is composed entirely of women who are descended *in their own persons* from the founders and builders of the Republic of the United States of America. Although not yet two years old, it already represents in its membership, in lineal descent, founders of ten of the thirteen original States—New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, and South Carolina; and of the prominent patriots of the Revolutionary period—Alexander Hamilton, John Jay, Chancellor Livingston, Rufus King, John Langdon, Roger Wolcott, Roger Sherman, John Alsop, Judge William Patterson, Robert Morris, Lewis Morris, Gen. Mifflin, Governor Rutledge, Governor Griswold, Philip Livingstone, Lord Sterling, Morgan Lewis, John Morin Scott, Mr. Quincy, William Floyd, Surg. Gen. John Cochrane, James Duane, and many others, and is constantly increasing its roll of members.

The society is purely patriotic and educational in its objects, which are:

(1) To collect and preserve relics, manuscripts, traditions, and mementos of the founders and builders of the thirteen original States of the Union, and of the heroes of the war of Independence, that the memory of their deeds and achievements may be perpetuated.

(2) To promote celebrations of great historic events of national importance, to diffuse information on all subjects concerning American history, particularly among the young, and to cultivate the spirit of patriotism and reverence for the founders of American constitutional history.

The objects of the society are deemed worthy of encouragement, and as the incorporation involves no expense upon the Government the committee recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 257.

INVESTIGATION OF THE PENSION BUREAU.

FEBRUARY 10, 1892.—Ordered to be printed.

Mr. CATCHINGS, from the Committee on Rules, submitted the following

REPORT:

The Committee on Rules, to which were referred Resolution No. 5, introduced by Mr. Enloe, and Resolution No. 8, introduced by Mr. Cooper, looking to the investigation of certain alleged charges against the Bureau of Pensions, and the Commissioner thereof, have had the same under consideration, and recommend the adoption of the accompanying resolution in lieu of both of them.

Resolved, That a select committee, to consist of five members, be appointed by the Speaker, which shall have power and authority to investigate and report upon the methods of business in the Bureau of Pensions, and before the Board of Pension Appeals; to inquire whether use has been made by the Commissioner of Pensions of his official position to promote his private affairs or partisan political purposes; whether there has been discrimination between applicants for pensions, or between attorneys practicing before the Bureau; whether any of the clerks or subordinate officers of the Bureau have abused their power or taken advantage of their position to make profit for themselves or others; whether the civil-service law has been violated by the Commissioner or other officers of the Bureau in the matter of appointments or promotions; and generally to inquire into all alleged abuses pertaining to said Bureau, or any of its officers or employés.

Such committee shall have power to send for persons and papers, to examine witnesses under oath, and may employ a stenographer and one clerk, and shall report the result of its investigation to the House, with such recommendations as it may deem proper to make; the expense of such investigation shall be paid out of the contingent fund of the House.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 258.

HIRAM STIMSON.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1424.]

The Committee on Military Affairs have had under consideration the bill (H. R. 1424) for the relief of Hiram Stimson, and report the same back as follows:

From the evidence presented by the military record and other papers, including the statement of said Stimson, it appears that he enlisted in the One hundred and fifty-fourth New York Volunteers in September, 1862, and served faithfully until June, 1863, when he received information that his wife was dangerously ill and not expected to recover. Procuring a furlough of ten days he went home, and at the expiration of that time applied for an extension. The surgeon wrote him that he had better make his way back to the regiment as soon as possible, and to stop and report at Washington, and that he would probably be punished as a deserter. This, he says, frightened him, and he did not go back, but went to Michigan and other places until the 30th of September, 1864, when under the name of Arnold Bennett he enlisted in Company M, Twelfth New York Cavalry, and served until June 23, when he was honorably discharged, and now holds an honorable discharge from said company.

In view of the fact that this man went back to the service and served faithfully until the detachment was mustered out after the close of the war, your committee recommend that the bill be amended by adding thereto the following: "*Provided, however*, That no pay or emoluments shall become due by virtue of this act," and as so amended that the bill do pass.

The record furnished by the War Department is appended hereto and made a part of this report.

Case of Hiram Stimson, late private Company D, One hundred and fifty-fourth New York Volunteer Infantry, alias Arnold Bennett, late of Company M, Twelfth New York Cavalry Volunteers.

RECORD AND PENSION DIVISION,
January 22, 1892.

Hiram A. Stimson was enrolled August 12, 1862, in Company D, One hundred and fifty-fourth New York Infantry, to serve three years, and mustered into service September 24, 1862.

He is reported on the company muster rolls as follows: April 30, 1863, "present;" June 30, 1863, "absent on furlough;" August 31, 1863, "deserted June 1, from Stevens's Farm, Virginia."

A descriptive list of deserters dated July 31, 1863, reports him "deserted July 1, 1863."

The company muster-out roll, dated June 11, 1865, shows him "deserted, as private, June 1, 1863, from Stevens's Farm, Virginia."

Arnold Bennett was enrolled as a private in Company M, Twelfth New York Cavalry, September 30, 1864, to serve one year, and mustered into service the same date.

He is borne on the muster rolls of said company and regiment as follows: October 31, 1864, "present;" December 31, 1864, "absent on detached service since December 18;" February 28, 1865, "absent, detached service;" April 30, 1865, "present."

He was mustered out of service with a detachment as a private, June 23, 1865.

On the 13th of November, 1891, the soldier, Hiram Stimson, made application for removal of the charge of desertion, declaring under oath that he enlisted in Company D, One hundred and fifty-fourth New York Volunteers, in August, 1862, and served faithfully until April or May, 1863, when he left the regiment under the following circumstances: Upon the recommendation of Dr. Henry Van Aernam, surgeon of the One hundred and fifty-fourth New York Volunteers, he received a furlough of ten days to enable him to visit his wife, who was dangerously ill and not expected to recover, and on the expiration of said furlough made application to Dr. Van Aernam for an extension thereof; that he received from Dr. Van Aernam, in reply, a letter telling him that he (applicant) knew the regulations of war, and had better make his way back to his regiment with as little delay as possible, stopping off at Washington to make his excuses, as he would probably be punished as a deserter; that he became frightened at this and left home for Michigan, where he remained about four months, then returned to Buffalo, N. Y., where he worked for a time, and then went to Canada, remaining there until about the middle of September, 1864; that he then went to Lockport, N. Y., and enlisted in Company M of the Twelfth New York Cavalry, on the 30th of September, 1864, under the name of Arnold Bennett, from which company and regiment he was honorably discharged on the 23d day of June, 1865, and that he now has an honorable discharge from said Company M, Twelfth New York Cavalry, dated June 23, 1865.

Under date of November 16, 1891, the applicant was informed, through his attorney, that his case was not covered by the act of Congress approved March 2, 1889, the only law on the subject now in force, the period of his absence from the service between desertion and reënlistment having exceeded four months; and that neither the legality of his second enlistment nor any claim for service rendered thereunder could be recognized by the Department, the law viewing him as in a constant state of desertion during the whole period of his second enlistment.

Since the date of that communication the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Major and Surgeon U. S. Army.

The SECRETARY OF WAR.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 259.

WILLIAM B. PAYNE.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2488.]

The Committee on War Claims, to whom was referred the bill (H. R. 2488) for the relief of William B. Payne, submit the following report:

This claim was presented to the Fifty-first Congress and a report was made thereon by the Committee on War Claims, to whom it was referred.

The investigation of the case by your committee has led to substantially the same results as those arrived at by the committee of the Fifty-first Congress. It is therefore deemed unnecessary to recapitulate the facts which were set forth in the report of the committee of the Fifty-first Congress, a copy of which is hereto attached for information.

Your committee recommend that the bill referred to them do pass.

[House Report No. 1434, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3205) for the relief of William B. Payne, report as follows:

Your committee adopt the report, hereto annexed, from the Committee on War Claims of the Fiftieth Congress, and report back the bill and recommend its passage.

[House Report No. 1442, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 7634) for the relief of William B. Payne, submit the following report:

In the spring of 1861 Mr. Payne began merchandising at Harrisonville, Cass County, Mo. The original cost of his stock was $9,800. About the 25th of July of that year Federal troops under command of Col. William Weir, consisting of two regiments of Reserve Corps, or Home Guards, under R. T. Vanhorn and A. H. Deane, respectively, two companies of the Fifth Kansas Volunteers, and one independent company, under the command of Capt. C. R. Jemison, were in camp near Harrisonville. A portion of these troops had never been supplied with clothing, shoes, blankets, or anything by United States.

These troops went into town and took from the store of Mr. Payne several wagon-loads of clothing, boots, shoes, hats, and blankets, and hauled them to camp, when they were distributed among the needy soldiers.

Mr. Payne was recognized as a loyal man then, and his store was protected by a guard of Union soldiers, and he was informed that the Government would pay him for these goods.

In September of the same year Federal soldiers, under the command of Col. John T. Burris, of the Tenth Kansas Volunteers, took from the pasture three valuable mules for the use of the company.

In October of the same year Federal soldiers, under command of Col. A. Newgent, took a large supply of boots, shoes, clothing, blankets, hats, and caps.

In December, Federal troops, under the command of Col. C. R. Jamison, but acting under the immediate authority of Lieut. Col. D. R. Anthony, took about all that remained of the stock of goods of Mr. Payne, and, in addition, one horse, three cows, and a lot of hay and corn.

The above facts are well established by documentary evidence from quite a number of people, including that of other merchants at the same place, who were there and personally knew the facts; by citizens who were living at Harrisonville at the time, and by some of the soldiers and officers, including Col. A. G. Newgent, one of the officers in command, and E. F. Rogers, who was quartermaster of one of the regiments above mentioned that took the goods. Mr. Rogers was detailed to guard Payne's store while the troops were stationed at Harrisonville. Mr. Payne, by his itemized bill, values the property taken at $7,805, while the other witnesses estimate the value variously from $6,000 to $9,000.

All the witnesses positively assert that Mr. Payne was loyal to the United States at all times.

Your committee report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 260.

EXECUTORS OF LEVIN R. MARSHALL, DECEASED.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1021.]

The Committee on War Claims, to whom was referred the bill (H. R. 1021) for the relief of Stephen Duncan Marshall and George M. Miller, executors of Levin R. Marshall, deceased, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[House Report No. 1191, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the petition and accompanying papers of the executors of Levin R. Marshall, deceased, late of Adams County, Miss., respectfully report:

Prior to and during the late civil war Levin R. Marshall was a citizen of Adams County, Miss., spending most of his time during the war in Westchester County, N. Y.; that he had a large property in the States of Mississippi, Louisiana, and New York, and during the war "stores and supplies" were taken from his plantations in Mississippi and Louisiana for the use of, and were used by, the Army of the United States.

Mr. Marshall died in July, 1870, and in 1873 his executors presented to the Southern Claims Commission a claim for compensation for the "stores and supplies" so taken.

After a thorough investigation as to the loyalty of said Levin R. Marshall and the merits of the claim, the Commissioners of Claims decided that his loyalty was fully established, and that his property had been taken and used. In their report to Congress, in December, 1875, there was an award in favor of the estate of Levin R. Marshall in the sum of $12,695. Among the items of the claim was one for a large quantity of corn taken from his plantation, called "Cabin Teele," in Madison Parish, La., on the Mississippi River, about 3 miles below Milliken's Bend, and which contained 2,200 acres of cleared land. The agent of the commissioners, who was sent to this plantation, investigated the matter and reported that the corn was in cribs and pens, and he gives the sizes of both by actual measurement made by him on the spot.

The aggregate amount of space occupied by the corn in the cribs and pens, as reported by him, was 56,015 cubic feet, which is correct according to the measurements he made. The corn was in the ear and slip-shucked, and the agent further reported that the 56,015 cubic feet of corn in the ear would only make 14,000 bushels of shelled corn. The Commissioners of Claims found as a fact from the evidence and the report of the agent that there were 56,015 cubic feet of corn in the ear taken and used by the Army, and they accepted the calculations made by the agent as correct, *and reported that in said 56,015* cubic feet there were only 14,000 bushels of shelled *corn, worth 75 cents* per bushel, making $10,500.

It appears from the evidence that Levin R. Marshall died before the claim was allowed, leaving seven children, and the loyalty of all but one was proved. Stephen Duncan Marshall, his son, whose loyalty was proved, and George M. Miller, of New York, qualified as executors.

From the above sum of $10,500, the value of the corn as reported by the commissioners, they deducted $1,500, the share of one of the sons whose loyalty was not proved, leaving $9,000 for the corn so taken and used by the Army.

Stephen Duncan Marshall and George M. Miller, executors of Levin R. Marshall, deceased, present their petition, and claim that the Commissioners of Claims made three errors in their award—

First. In deducting the share of one heir, or one-seventh of the amount found due the estate, when the father, to whom the property belonged and from whom it was taken, was loyal and the estate was in the hands of his executors.

Second. That the price allowed for corn was less than the price paid by the Army or the market rate at that time and in that locality or section of country, which petitioner claims was $1 per bushel.

Third. That the commissioners erred in their calculation as to the quantity of corn in the cribs and pens, the exact size of which had been determined by their agent by a measurement made by him on the plantation, the aggregate amounts of space of the cribs and pens, as determined by him, being 56,015 cubic feet, which petitioners claim held 24,895 bushels of shelled corn, instead of 14,000 bushels, as stated by the agent and also by the commissioners in their report to Congress.

Your committee have made inquiry into the rule or practice adopted by the Court of Claims and the Quartermaster-General in similar cases in determining loyalty, and they find that both the court and department have required the loyalty of the person who owned the property and from whom it was taken to be established, and when satisfactorily proved claims have been paid without inquiring into the loyalty of the heirs. This rule or practice is shown by a letter from the Quartermaster-General, on file with the papers, and the published opinions of the Court of Claims.

Your committee therefore are of the opinion that the Commissioners of Claims erred in deducting the share of one of the heirs of Levin R. Marshall, deceased, when the loyalty of said Marshall was fully proved.

There is also on file a communication from the Quartermaster-General stating that the rate recommended by him for corn taken at or near Natchez, Miss., in the summer and fall of 1863, in the Merrill and Nutt cases, was $1 per bushel; other evidence establishes this rate at Grand Gulf, Miss. As the corn of Levin R. Marshall was taken about the same time and in the same section of country, being in the second parish above the parish opposite Natchez, where, as your committee understand, most of the Merrill corn was taken, and Grand Gulf being near the Marshall place, it is but fair and just to pay the estate of Marshall the same price. We therefore estimate the Marshall corn at $1 per bushel, being the same price, as we understand, already paid to the Merrill and Nutt estates.

The authorities on the rule of measurements of corn in the ear differ a little, some of them stating that 2 cubic feet of dry corn in the ear will make a bushel of shelled corn, others stating that it will take 2¼ cubic feet to make a bushel. Taking the latter estimate, which is the one adopted by the Quartermaster-General in similar cases before him, as we understand, and the cribs and pens measuring 56,015 cubic feet, would hold 24,895 bushels of shelled corn if the ear corn had been fully shucked.

It appears from the evidence that the corn was what is known as slip-shucked corn; that is, part of the shuck left on the ear and the heavier or outside portion stripped off. There is evidence on file from persons engaged in farming, milling, and in the commission business showing that it would be a liberal estimate to allow 3 cubic feet of slip-shucked corn in the ear to make a bushel of shelled corn, and your committee believe that this allowance is ample as a rule of measurement, and that to every 3 cubic feet of slip-shucked corn there must have been a full bushel of shelled corn. At this rate of measurement there were in the cribs and pens of Levin R. Marshall 18,672 bushels of corn, which at the rate of $1 per bushel is $18,672. Deducting the amount allowed by the commissioners, to wit, $9,000, and there remains due the estate of said Marshall the sum of $9,672 for the corn taken and used by the Army, according to the measurements of the cribs and pens as reported by the commissioners; add to this latter amount the sum of $615, being the amount deducted by the commissioners for the items other than corn for the share of the heir whose loyalty was not proved, and there remains due the estate of Levin R. Marshall the sum of $10,287.

Your committee therefore recommend the allowance of the claim to the amount of $10,287, and they report the bill back and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 261.

ALEXANDER STODDART.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4053.]

The Committee on War Claims, to whom was referred the bill (H. R. 4053) for the relief of Alexander Stoddart, submit the following report:

The facts of this claim are fully fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee report back this bill and recommend its passage.

[House Report No. 1595, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred bill (H. R. 8116) for the relief of Alexander Stoddart, of the State of New York, have had the same under consideration and beg leave to report as follows:

It appears from the evidence submitted that in the year 1868 Alexander Stoddart, of the State of Michigan, filed his petition in the Court of Claims, under the act of March 13, 1863, to recover the proceeds of 260 bales of cotton captured at Mobile, Ala., in April, 1865, by the military authorities of the United States. That at the December term, 1870, the Court of Claims, after a full hearing, found upon the evidence submitted that 260 bales of cotton were captured, as claimed, in April, 1865, at Mobile, Ala., by the military authorities of the United States, the proceeds of which in the Treasury amounted to the sum of $47,673.60; but they found at the same time that of the said 260 bales of cotton only 133 bales belonged to the claimant, and that he was only entitled to the proceeds of the said 133 bales, amounting to the sum of $24,394 86.

They also found upon the evidence before them that the remainder of said cotton, to wit, 127 bales, belonged to the estate of John Henry, deceased, and that the beneficiaries of said estate were entitled to the proceeds of the said 127 bales in the Treasury, to wit, the sum of $23,278.74. By reference to the opinion of the court in said suit, reported in volume 6, Court of Claims Reports, page 340, it will be seen that the court declined to render judgment for the said sum of $23,278.74, the proceeds of the said 127 bales, without proof as to the nature and interests of the trust estate of the said John Henry and as to the loyalty of the beneficiaries entitled to the proceeds, it appearing that the said 127 bales were held by the trustees of the estate of the said John Henry.

Your committee are satisfied from the evidence submitted and the opinion of the court that the said 127 bales belonged to the beneficiaries of the estate of the said John Henry, deceased, and that after the said decision was rendered by which their rights were ascertained they were debarred from asserting their claim under the act of March 13, 1863, by the statute of limitations.

It further appears from the evidence submitted that on the 15th day of June, 1874, the beneficiaries of the estate of the said John Henry sold and assigned all their interests in the said cotton and its proceeds to Alexander Stoddart, of the city of New York.

Your committee, believing that the said Alexander Stoddart should now have an opportunity to prosecute in the court his claim to the proceeds of the said 127 bales of cotton now in the Treasury, notwithstanding the statutory bar of limitations, *report back the bill* and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 262.

RACHEL DYER.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHELL, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1700.]

The Committee on War Claims, to whom was referred the bill (H. R. 1700) for the relief of Rachel Dyer, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee report back the bill and recommend its passage, with the following amendment:

In line 6 strike out "six hundred and fifty-six dollars and eighty cents" and insert in lieu thereof "five hundred dollars."

[House Report No. 624, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2074) for the relief of Rachel Dyer, of Fairfax County, Va., having had the same under consideration, beg leave to report the bill favorably, first substituting the sum of $500 for the sum of $656.80, expressed in the bill—that is, they recommend the passage of the accompanying substitute bill, and that the original bill (H. R. 2074) lie upon the table. The following is a copy of the papers in the case:

WASHINGTON CITY,
District of Columbia:

Personally appeared before the subscriber, Thomas W. Soran, a notary public in and for the District of Columbia, Rachel Dyer, who being duly sworn according to law deposes and says that she is the widow of the late William Dyer, of Fairfax County, Virginia, that she was married on the 9th day of January, 1856, in the city of Washington, District of Columbia, and that her late husband died in the said county of Fairfax, State of Virginia, on the 3d day of June, 1882; and she further states that her late husband and herself were always loyal to the United States Government, and that the property mentioned in Exhibit A (which is an inventory of the property taken) is true; that part of the said property was ordered to be taken by Maj. Taggart and part by the officer in command of the Sixth Army Corps, whose name she is unable to give; that the property was taken during the winter of 1862 and 1863.

RACHEL DYER.

Subscribed and sworn to before me this 29th day of April, 1886.

[SEAL.] THOMAS W. SORAN,
Notary Public.

EXHIBIT A.

Inventory of property taken from the farm of William Dyer, of Fairfax County, Va., during the winter of 1862 and 1863 by United States troops, under command of Maj. Taggart.

1 cow, valued at	$75.00
1 brood sow	20.00
1 frame stable	200.00
100 panels of fence	100.00
50 panels of plank fence	50.00
1 side of meat	3.00
2 shoulders	3.60
7 hams	25.20
40 hens	30.00
2 stoves	15.00
	521.80
The following were taken by the Sixth Corps:	
72 acres of potatoes, with garden stuff	$100.00
Silverware	20.00
Wheelwright tools	15.00
	135.00
	521.80
Total	656.80

The above is a true statement of property taken and used by the United States.

RACHEL DYER.

General affidavit.

DISTRICT OF COLUMBIA,
County of Washington, ss:

In the matter of Rachel Dyer, Senate bill No. 2244, before the Committee on Claims, personally came before me, a notary public in and for aforesaid county and district, Mary E. Thornton, aged forty-six years, citizen of the city of Washington, D. C., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows:

That she during the late war was a resident of Fairfax County, Virginia, and resided there when the Union Army took the property belonging to Mrs. Dyer. That the reason she remembers it so well is that Mrs. Dyer was about the only Union woman in that neighborhood about that time, and the people made fun of her about her own soldiers taking her property. She further states that Mrs. Dyer is now an old woman, with no means for support of which she knows, and further declares that she has no interest in said case and is not concerned in its prosecution.

MARY E. THORNTON.

JOHN C. FOSTER.
JAS. A. TAIT.

Sworn to and subscribed before me this day by the above-named affiant, and I certify that I read said affidavit to said affiant and acquainted her with its contents before she executed the same. I further certify that I am in no wise interested in said case, nor am I concerned in its prosecution; and that said affiant is personally known to me; and that she is a creditable person and so reputed in the community in which she resides.

Witness may hand and official seal this 8th day of June, 1886.

[SEAL.]

JAS. A. TAIT,
Notary Public.

We, the unersigned, citizens of Fairfax County, Virginia, certify by affixing our signatures to this paper that we know Mrs. Dyer and also knew Mr. Dyer (deceased) before, during, and since the war, personally, and that at all times they were loyal citizens to the United States Government.

MARGARET R. MOBLEY.
ANNIE D. KERLEY.
Now residing in Washington. { HENRY BISHOP.
ANNIE E. BISHOP.
RICHARD COLLINS.
S. B. COLLINS.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 263.

ADELICIA CHEATHAM.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COX, of Tennessee, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2584.]

The Committee on Claims, to whom was referred the bill (H. R. 2584), for the relief of the legal representatives of Adelicia Cheatham, have carefully examined the same, and beg leave to report the same, with the recommendation that it pass.

A similar bill was favorably reported by your committee, from the Forty-fifth Congress to the present, and there has never been an adverse or minority report.

The report made in the Fiftieth Congress, by Mr. Simmons, No. 298, which was agreed to, so fully sets forth the facts that your committee adopts the same and makes it a part of this report.

[House Report No. 298, Fiftieth Congress, first session.]

In 1864, the claimant, Mrs. Cheatham, then Mrs. Acklen, widow of Joseph A. S. Acklen, deceased, sold 1,785 bales of cotton in New Orleans and 1,102 bales in Liverpool. This cotton was raised in 1861 and 1862 by Joseph A. S. Acklen (then the husband of Mrs. Cheatham), on lands in the State of Louisiana belonging to his wife (now Mrs. Cheatham) and his four children. Over two thousand bales of this cotton were of the crop of 1861.

Out of the proceeds of the sale of this cotton there were paid in 1864 the internal-revenue tax, $49,197.40; excise tax, $24,598.70, and hospital fees, $14,116.80, amounting in all to $87,912.90 over and above the legacy or succession tax which attached to it upon the death of Acklen. No relief is asked as to this tax.

In May, 1867, the assessor for the fifth collector's district of Tennessee made an assessment of income tax upon the proceeds of this 2,877 bales of cotton sold as stated in 1864 and raised in Louisiana in 1861 and 1862.

This assessment was $99,726. On the 17th of June Mrs. Cheatham and her then husband, W. A. Cheatham, appealed from that assessment to the Commissioner of Internal Revenue, who, on the 7th of October, 1867, rendered his decision directing the local assessor to make a new one, giving him directions as to the principles on which it should be made. On the 15th of March, 1868, the new assessment was made at the sum of $29,971.91.

No appeal was taken from this assessment, but under written protest was paid in three installments, amounting, with penalty and interest, to the sum of $32,074, the last payment having been made October 29, 1868.

On the 15th of January, 1869, claimant instituted suit against the collector in the circuit court of Tennessee to recover said amount of $32,074 paid under protest.

The cause was transferred from the State court in which it was commenced to the circuit court of the United States for the middle district of Tennessee.

Judge Trigg, the district judge before whom the case was tried, gave the following written instructions to the jury:

"First. That by the laws of the State of Louisiana the crops of cotton of 1861 and 1862 were the *property* of Joseph A. S. Acklen, the late husband of the plaintiff,

Adelicia, at the time of his death, in 1863, and when she sold said crops of cotton in 1864, as administratrix of her said late husband, after paying the community debts of her husband and herself, and his individual debts if he owed any such, one-half of the net balance of the proceeds of said cotton passed to said plaintiff, Adelicia, by the laws of the State of Louisiana, was not liable to any tax or duty in her hands under the act of Congress.

"Second. That the crops of cotton raised in the years 1861 and 1862, respectively, were the annual products of those years, and could not be taxed as income for the year 1864 under the act of Congress June 30, 1864.

"Third. It is the opinion of the court, and it so charges, that the assessment of said income against the plaintiff, Adelicia Cheatham, was erroneous and illegal, and made without the authority of law. Although the court is of the opinion that the assessment was illegal, yet it thinks, and so charges, that this case depends solely upon the construction of the nineteenth section of the act of 13th of July, 1866.

"The court is of the opinion that the said nineteenth section is not a statute of limitation, as has been suggested, but it is a right given by Congress to all persons who feel that they have been illegally or erroneously assessed to sue to recover back money paid and exacted illegally, but only when they have complied with the provisions of section —— of said act. It is a condition without doing which the parties have no action.

"When a person shall deem himself illegally or erroneously assessed, before he can maintain suit in any court he must appeal to the Commissioner of Internal Revenue, according to the provisions of the law in that regard, and a decision of said Commissioner shall be had thereon, and suit must be brought within *six months* from the time of said decision, or within six months from the time this act takes effect. However, if said decision is delayed more than six months from the date of such appeal, the said suit may be brought at any time within twelve months from the date of such appeal.

"Now, if the jury shall believe, from the evidence, that the decision made by the Commissioner of Internal Revenue was made within six months from the 17th day of June, 1867, when his appeal was taken, then, under the nineteenth section of the act of 13th July, 1866, the plaintiffs must have brought their suit within six months from the date of that decision, and unless they did so they can not maintain this suit, and the jury must find for the defendant."

Although Judge Trigg decided that the assessment "was erroneous and illegal, and made without the authority of law," yet because Cheatham and wife had not brought their suit within six months from the date of the decision of the Commissioner of Internal Revenue they could not maintain their suit.

The case was appealed to the Supreme Court of the United States, heard October term, 1875, and reported in 92 United States Reports, page 85. The Supreme Court affirmed Judge Trigg's decision, and further held that as there was no appeal from the final assessment of taxes made on the 15th of March, 1868, the right of suit had not been perfected by a compliance with the conditions of the statute.

The decision of both courts against Mrs. Cheatham was upon the merest technicality.

All of the facts are detailed at length in the transcript of the record in the appeal to the Supreme Court, hereto annexed and marked "Appendix B."

This case was favorably reported by the Committee on Claims of the Forty-sixth Congress; also by the Committee on Claims of the Forty-eighth Congress, and by Senator Morgan, of the Senate Committee on Claims, in the Forty-fifth Congress, which last mentioned report, with the petition of Mrs. Cheatham, is hereto annexed, marked "Appendix A."

Adopting the language of Senator Morgan:

"The Supreme Court held that to entitle the plaintiffs to sue the tax collector for collecting a tax so assessed, this appeal should have been to the Commissioner of Internal Revenue, and that such appeal is essential to the right to sue.

"This is the law, as correctly decided, but this law does not establish a right in the Government to take from a citizen his money, under color of collecting a tax, without any authority of law to justify the seizure. It is not even a statute of limitations, by which a wrong is sometimes sanctioned by lapse of time. If there was no law to support the assessment or the collection when it was made, of this onerous burden, no officer of the United States could make it lawful by any act he could do or omit to do. Evidently the right of appeal to the Commissioner is not the only or even the preliminary right of the citizen to redress at the hands of the Government, when his property is taken without any color of law, and yet it may be the condition precedent on which the Government has permitted its tax collectors to be sued, so as to bind the Government by the judgment of the courts.

* * * * * * *

"It is true beyond question that this income-tax was not supported by the law, and its collection, against the earnest written protests of Mr. and Mrs. Cheatham,

carried so much money into the Treasury by duress of governmental power, to which the Government had no right. It is the rightful property of Mrs. Cheatham.

"It would not comport with the honor of the Government to retain this money upon the merely technical ground that it could not be recovered by suit.

"The argument that laches is imputable to Mr. and Mrs. Cheatham is not sound. She mistook her rights and failed to secure redress for her grievance by the merest technicality. The Government was not in any way compromised by the delay of Mrs. Cheatham to bring suit, and should not by its example encourage or incite the people to regard it as a violation of its own laws when, by using its power to collect taxes contrary to law, it seizes the property of a citizen and refuses to restore it."

Amend by striking out in the eighth and ninth lines the words "with interest from October twenty-ninth, eighteen hundred and sixty-eight." When so amended, the committee recommend that the bill do pass.

APPENDIX A.

To the Senate and House of Representatives
of the United States in Congress assembled:

Your petitioners, William A. Cheatham and Adelicia, his wife, citizens of the United States, residing in the State of Tennessee, near Nashville, respectfully ask that they be reimbursed certain taxes illegally against them, and collected under the income-tax laws of Congress, and the recovery of which by suit instituted for the purpose, was lost upon the technical ground that they had not taken a second appeal from the assessment, although they had taken an appeal to the Commissioner of Internal Revenue, under which the questions involved were all ruled upon, and the last assessment made in strict accordance with the rulings.

The facts are, in brief, as follows: The taxes in question were originally assessed on the 10th of May, 1867, under the internal-revenue act of the 30th of June, 1864, ch. 173, upon the proceeds of crops of cotton raised in Louisiana during the years 1861 and 1862, and sold in 1864. These crops were raised by Joseph A. S. Acklen, on plantations which were the joint property of your petitioner, Adelicia, then the wife of said Joseph A. S. Acklen, and her four children by the said Acklen, to wit, Joseph H. Acklen, William H. Acklen, Claude Acklen, and Pauline Acklen.

Joseph A. S. Acklen died intestate on the 17th of September, 1863. The crops of cotton in question, having been raised by him, constituted a part of the and gains of the community property under the laws of the State of Louisiana.

Their proceeds, when sold by your petitioner, Adelicia, as his administratrix, in 1864, were distributable, after paying the community debts and the individual debts of the husband, between the widow and the children. (See Louisiana Code, § 2371 *et seq.*)

The only tax to which these proceeds were lawfully subject was to legacy duty under the first act of Congress on that subject.

The tax actually assessed was illegal and void, and was so conceded to be on the trial of the suit for the recovery thereof both by the district attorney of the United States and the learned district judge who presided, and the latter so stated in his charge to the jury. (Printed record, p. 20.)

On the 10th of May, 1867, the assessor for the fifth collection district of the State of Tennessee made an assessment against your petitioners, as income-tax for the year 1864, on the proceeds of the sales on said cotton of $99,726. On the 17th of June, 1867, your petitioners appealed against this assessment to the Commissioner of Internal Revenue. On the 7th of October, 1867, the Commissioner instructed the assessor to make a new assessment upon the principles stated in his letter, and on the 15th day of March, 1868, a new assessment was made strictly in accord with the directions, which reduced the amount to $29,971.91. The amount thus assessed was paid, with interest, as follows:

1868, April 30.	Paid in cash	$3,799
" July 25.	" " "	20,000
" Oct. 29.	" " "	8,275
		32,074

On the 15th of January, 1869, your petitioners brought suit for the sums paid, which suit went against them in the court below, and in the Supreme Court, at its October term, 1874, exclusively upon the ground that the second assessment was not appealed from. Such an appeal, it is obvious, after the express rulings of the Commissioner upon all the points of your petitioners' case, would have been a mere form, and was not considered necessary by the counsel of your petitioners. Your petitioners submit that the assessment was, under the circumstances, most unjust.

The crops of the years 1861 and 1862 were not taxable as income under the act of 1864, ch. 173, and that act had been itself repealed by the act of the 3d of March, 1865, ch. 78, sections 1 and 16, long before the original assessment of the 10th of May, 1867.

Out of the proceeds of these crops, moreover, there had been paid in 1864, in the way of internal-revenue tax, excise tax, and hospital fees, $89,915.90; and legacy duty, as provided by the internal-revenue laws, had also been paid out of the funds.

The assessment of the proceeds as income was without warrant of law, and its enforcement unjust.

Your petitioners respectfully ask that the said sum of $32,074, with interest, be refunded to them by your honorable body; and, as in duty bound, they will ever pray, etc.

WM. A. CHEATHAM.
ADELICIA CHEATHAM.

APPENDIX A 2.

Mr. Morgan, a subcommittee, submitted the following report upon the claim of William A. Cheatham and Adelicia Cheatham.

On the 15th of January, 1869, William A. Cheatham and Adelicia, his wife, brought suit in the State circuit court of Tennessee against Henry L. Norvell, United States internal-revenue collector, for the recovery of income taxes which they alleged had beed illegally assessed and collected from Mrs. Cheatham.

On the petition of Norvell the case was removed into the circuit court of the United States at Nashville. On the trial judgment was given against the plaintiffs, and on appeal to the Supreme Court of the United States that judgment was affirmed. The record of the entire suit, as it was certified to the Supreme Court of the United States, was before the committee. It contains the deposition of Mrs. Cheatham and other evidence, and an agreement of the parties as to the facts of the case, which your committee regard as authentic and satisfactory evidence.

The facts as thus proven are as follows:

On the 10th May, 1867, John McClelland, assessor for the fifth collection district of Tennessee, made an assessment of income tax, under the act of 30th June, 1864, ch. 173, upon the proceeds of 2,877 bales of cotton raised in Louisiana during the years 1861 and 1862. This assessment was $99,726, as income tax for the year 1864. On the 17th June, 1867, Adelicia Cheatham appealed to the Commissioner of Internal Revenue from this assessment, and she and her husband also protested against it, and presented their protest to the Commissioner. The petition and protest detail verv fully the history of the raising of this cotton in Louisiana in 1861 and 1862 by Mr. Joseph A. S. Acklen, formerly the husband of Mrs. Cheatham, on lands belonging to his wife (now Mrs. Cheatham) and their four children.

During these years 2,887 bales of cotton were raised on those plantations, of which about two-thirds were grown in 1861. In 1864 Mrs. Cheatham sold 1,785 bales of this cotton in New Orleans and 1,102 bales in Liverpool. This cotton was taxed, in addition to the $99,726 assessed as income tax, as follows:

Internal-revenue tax	$49,197.40
Excise tax	24,598.70
Hospital fees	14,116.80
	87,912.90

all of which taxes were paid.

The appeal and protest of Mrs. Cheatham and her husband to the Commissioner of Internal Revenue is as follows:

To the hon'l ———:

Your petitioner, Adelicia Acklen, a citizen of Davidson County, Tennessee, would respectfully state that before and during the years 1861 and 1862, and afterward, up to the date of , 1864, her late husband, Joseph A. S. Acklen, and your petitioner, as his wife, were resident citizens of the State of Louisiana, in the parish of West Feliciana. At the latter date the said Joseph A. S. Acklen departed this life, and your petitioner subsequently made her home in Tennessee. Your petitioner was and still is the owner of an undivided interest in several valuable plantations in the said State of Louisiana, the other undivided interest belonging to her four children by said Acklen, for whom she is tutrix under appointment in that State. The plantations were carried on, however, under the management and control of her late husband, and he was entitled to an undivided half of the income, acquits, and gains.

At the commencement of the year 1861 the said plantations were in a flourishing con-

dition, and were during that year worked with reasonable diligence in the production of the great staple crop of cotton, and the yield was something like a fair average. But the difficulty of furnishing subsistence, clothing, and other necessary supplies for the fifteen hundred negroes then on the plantations increased as the year advanced, and the expenses were enormously enhanced before the close of the year. The occupation of the Upper Mississippi River by the United States troops in the fall of 1861 cut off the usual supplies, and the ordinary necessaries of life ran up to fabulous prices. As early as September meat was worth thirty dollars a barrel, in coin, and subsequently went up to fifty dollars and upward. Under these circumstances your petitioner and her husband were compelled to contract and did contract for loans of money with their commission merchants at New Orleans, at eight per cent per annum interest, secured by a privilege or mortgage on the plantation, slaves, and growing crop, which funds were absolutely necessary for keeping up the plantations and were so applied.

Your petitioner has now before her a letter from Bradley, Wilson & Co., of New Orleans, her commission merchants, written in the fall of 1861, which shows that the liabilities they had thus incurred for your petitioner and her husband by advances in 1861, and acceptances maturing in that year and in 1862 up to July, amounted to $231,373.91. And this debt, with eight per cent interest, was subsequently, in 1864, paid to them or their assignees out of the proceeds of the sale of the crop of 1861, the whole sum thus paid being $278,594.86.

Your petitioner would further state that the increased difficulties of obtaining supplies, the absolute necessity of raising provisions, and the impossibility of regulating and controlling the labor of the slaves, largely diminished both the planting and yield of cotton in the year 1862. Your petitioner is fully satisfied that the yield of the cotton crop of 1862 was not the one-third of the yield of 1861, and expenses of carrying on the plantations were greater. Your petitioner's husband was compelled to make and did make great sacrifices to enable him to go through the season.

The cotton crop of 1861 had been ginned and baled, but the crop of 1862, on account of the running off the stock and the impossibility of procuring bagging and rope, remained in the seed until, in the summer of 1864, sacks were procured and brought up from New Orleans, and the cotton, at great expense and hazard, taken to New Orleans, and there ginned and baled. Your petitioner is thus particular in stating these facts, in order that it may be clearly seen that her agent, in the estimate hereinafter mentioned of the net proceeds of the crop of 1862, was fully justified by the facts, and that he erred in reality in making the amount larger than it should have been. Your petitioner supposed that these crops having been the produce of plantations in Louisiana, where she and her husband were at the time domiciled, and in which her husband, herself, and her children had an undivided interest, that she was not expected to make return thereof under the internal-revenue laws of the United States, unless required to do so by the local assessors of that State, where the facts were known and could easily be established.

She also advised that no effort was being made to collect the income-tax for the years 1862-'3, and '4, in the State of Louisiana, and that it was neither right nor just to make an exception of her case to the general rule. Accordingly, she did not make any return of the proceeds of the crop of 1862 in her return of income in Tennessee.

Recently, however, a special agent of the Treasury Department at Washington applied to petitioner's agent for a return of the sales of said crop. Said agent of the Treasury Department stated that the act of Congress of , 1862, did not, nor did any of the subsequent acts in relation to the tax on incomes, reach back to the crop of 1861, and that what your petitioner was required to do was to return her income in the crop of 1862.

Your petitioner was advised by counsel that the act of Congress of June 30, 1864, under which she was required to make the return, does not cover or include the proceeds of crops made previous to the year 1864, and that this point had been expressly by the courts of the United States; among others by the circuit court of the United States at Baltimore, in the case of Odler Bove.

But said Treasury agent, threatening, notwithstanding his attention was called to the legal construction of the law, that he would himself cause a return, with the penalties prescribed, to be made, unless your petitioner would furnish a return herself, your petitioner's agent applied to him to know whether it would be necessary to make out all the items specifically or only to make a lumping statement. Upon his assurance that the latter would be sufficient, your petitioner's agent, by taking one-half of the net sales at New Orleans and Liverpool, as they appeared on the accounts before him, added twenty-five per cent for the differences between gold and currency to the sales in Liverpool, and by deducting one-half of such allowance as he thought your petitioner would be entitled to, ascertained that the full amount with which your petitioner could be chargeable, in any event, to the crop of 1862, was $103,195, and made return accordingly, accompanied, however, with the protest in your petitioner's name against any assessment of income tax upon said crop. The

Treasury agent accepted the return, and promised, as your petitioner's agent understood him, to lay the return and protest before the Commissioner at Washington.

Your petitioner was, therefore, taken by surprise when served, on or about the 15th of May instant, with a notice in writing by H. L. Nourse, collector of the fifth district, Tennessee, that a tax had been assessed upon her amounting to ninety-nine thousand seven hundred and twenty-six dollars ($99,726) on her income for the year 1864, and that payment thereof was demanded. Your petitioner does not know how this result has been arrived at, but she knows that the amount is excessive, and she solemnly protests against the same, not only for the reasons suggested in her protest above referred to, but because the same is erroneous and unjust.

Your petitioner has, as rapidly as possible, obtained the necessary papers from New Orleans and elsewhere, and is now able to make a correct statement of the exact amount realized from the sales of said crops, and an approximation of the deductions to which, as she is advised, she is entitled to under the internal-revenue laws.

Your petitioner would now state that the crops of cotton of 1861 and 1862 were with great difficulty, and with great expense, preserved from destruction until the spring of 1864, when they were sent together, the crop of 1861 ginned and baled, and the crop of 1862, unginned and in sacks, to New Orleans, where the latter crop was ginned and baled.

The entire crops amounted to twenty-eight hundred and eighty-seven bales (2,887), of which, as she is informed and believes, over two thousand were of the crop of 1861, and the residue of the crop of 1862. Of these, seventeen hundred and eighty-five bales (1,785) were sold at New Orleans, and eleven hundred and two bales (1,102) were sent by way of New York to Liverpool, the cost of shipment being paid out of the proceeds of the sales at New Orleans. After paying the necessary expenses of getting the crops to market and the expenses of the sales at New Orleans, and the Government dues, including—

Internal-revenue tax	$49,197.40
Excise tax	24,598.70
Hospital fees	14,116.80
	87,912.90

the net balance of the sales at New Orleans, as shown by the account sales and accounts-current of the commission merchants (all of which can be produced if required), amounted to the sum of three hundred and twenty thousand seven hundred and thirteen $\frac{71}{100}$ dollars ($320,713.71). In the same way the net sales of the cotton made at Liverpool, between July and December, 1864, as shown by the accounts-current of Schroder & Co. (which can be produced if required) were fifty-one thousand four hundred and thirty-nine pounds two shillings and six pence (£51,439 2 6), which when reduced to Federal denominations at 4 $\frac{84}{100}$ dollars to the pound sterling, amounts to two hundred and forty-eight thousand nine hundred and sixty-five $\frac{36}{100}$ dollars ($248,965 36). The proceeds of these sales were placed to her credit at the Rothschilds in September and December, 1864, and January, 1865. The net sales at New Orleans and Liverpool are ($569,679.07) five hundred and sixty-nine thousand six hundred and seventy-nine $\frac{7}{100}$ dollars.

Your petitioner is advised that upon the supposition that these net proceeds are liable to an income-tax, she is entitled to have deducted therefrom the necessary expenses of raising the crop, the average repairs on the plantations for the years 1861 and 1862, the annual taxes for those years actually paid, the interest upon the mortgage debt on the plantations and crops, and the actual expenses of preserving the cotton from destruction.

She is also advised that if the proceeds of either of these crops are to be charged as income for 1864, she is entitled to a further deduction for the interest of the mortgage debt to the day of payment, and for the subsistence of the slaves and stock to 1864, inclusive. All these credits she has set forth in the schedule or exhibit herewith filed, marked No. 1, and made a part of this petition. The items are estimated from the best information she has been able to procure, and are, she believes, a near approximation to the truth, and under rather than over the reality. They amount, it will be noticed, to three hundred and seventy-nine thousand eight hundred dollars ($379,800). If, now, we deduct this amount from the net proceeds of sales as above, we have a balance of one hundred and eighty-nine thousand eight hundred and seventy-nine dollars and seven cents. Of this balance, for the reasons already given, two-thirds may be considered as the net proceeds of the crop of 1861, and one-third as the net proceeds of the crop of 1862, thus:

Two-thirds for 1861	$126,586.06
One-third for 1862	63,293.02

Your petitioner believes the foregoing is a near approximation to the truth, and if she is chargeable with anything it is only with the income tax on her undivided in-

terest in the net proceeds of the crop of 1862, and then only under the provisions of the act of Congress of 1862, not the act of 1864, which can not relate back to crops raised before that year. The crop of 1861, it is obvious, is not subject to income tax at all, and the net proceeds of its sales were used in the payment of the debt which was a mortgage thereon.

Your petitioner submits that she ought not to be charged at all, except through the local assessors of the State of Louisiana, and then only in case all other citizens in like situation with her husband and herself in that State are so charged, with income-tax on the crop of these years. She respectfully asks that the assessment made by the local assessor of the fifth collection district of Tennessee be reviewed, set aside, and annulled, that her protest against any assessment be considered and acted on, and justice be done in the premises. It is proper to add that one of the deductions made by her is the amount of fifty thousand dollars claimed by Alexander Walker for services in getting the crops to market, and for the recovery of which he has brought suits in the courts of Louisiana, and recovered judgment for twenty-five thousand dollars ($25,000), which judgment was, upon appeal to the Supreme Court, reversed and remanded for another trial. If this claim should be disallowed, in whole or in part, and your petitioner is held bound to pay an income-tax on the crops in question, she will hereafter, in future returns of income, hold herself bound to return so much of the fifty thousand dollars as may be avoided in said suit, less the actual expenses incurred in defending the same. This is the only deduction made from the gross sales at New Orleans, as per account sales and account current, which is not for money actually paid by her said commission merchants at New Orleans for the necessary expenses of getting the crops to market and selling the same. The deductions in Schedule A, No. 1, are in addition, and such as she is advised she is entitled to under the internal-revenue laws. Your petitioner has exhausted the proceeds of the crop of 1861 in the payment of the mortgage debts as before stated, and if now called upon to pay an income-tax on the proceeds of that crop would be compelled to sell property to meet the demand. Your petitioner again submits the matter to your decision, being willing, as she always has been, to pay any dues with which she is legally and properly chargeable.

On the 7th of October, 1867, Thomas Harland, deputy commissioner of internal revenue, made a decision on the foregoing appeal as follows:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, October 7, 1867.

SIR: I have before me your letter of 9th ult., relative to the assessment made upon the income of Mrs. Adelicia Acklen, of Nashville, for the year 1864; also letter of 13th of May last, of D. S. Goodloe, esq., revenue agent, inclosing abstract of the assessments, and a petition from Mrs. Acklen addressed to this office; also a letter dated August 24 last, from Collector Norvell, introducing to the office Mr. Thomas T. Smiley, of your city; also a copy of the account current for 1864 between W. A. Johnson & Co., of New Orleans, commission merchants, and Mrs. Acklen; also the account current between Mrs. Acklen and J. H. Shroeder & Co., of Liverpool, for the same year, and various other papers.

It appears that, being unable for some reason to obtain a statement from Mrs. Acklen of her income of 1864, an independent assessment was made by you, based upon the sales of 3,000 bales of cotton in 1864, for $800,000 net, and tax assessed, which, with penalty, amounted to $99,650. The reasons which prevented due returns by Mrs. Acklen for the year 1864 are stated by Mrs. Acklen in her petition, many of which, if not all, are deserving of consideration; but whether valid or not, there is no doubt but that, under the circumstances, you were justified in making an independent assessment, while at the same time, in view of the statements of the petition, and the accounts of Mrs. Acklen with her agents in New Orleans and Liverpool, it is clear that the assessment made is so far in excess of the proper assessment that great injustice should be done were it allowed to stand.

On examination of the accounts current referred to you, you will see that in all 2,887 bales of cotton, the product of various plantations in the State of Louisiana in the years 1861 and 1862, were sold in 1864, of which 1,785 bales were sold in New Orleans for $501,235 and 1,102 bales in Liverpool for £51,439 2*s.* 9*d.*; reduced to Federal denominations, at $4.84 per pound sterling, $248,965. Mrs. Acklen appears to have gotten the impression that at least so much of the proceeds of the aforesaid crop as was raised for the product of the year 1861 is not returnable as income; but the law now in force, and also at the time of assessment of income for 1864, places the tax on all sales of farm and plantation products made in that year, making no distinction as to the time when the same were raised. Such expense of carrying on the farm or plantations as is due to the year of income (in this case, 1864) is also deductible from the sales, but expenses due to former years can not be taken into consideration.

In the abstract of the independent assessment which you forward you have allowed "$400,000 expenses of taxing and raising," but there is no authority for such allowance, at all events in making a regular assessment.

In view of the above-mentioned requirements of the law, and the unprecedented expense incurred in raising the crops sold in 1864, it is believed to be no more than just that Mrs. Acklen should enjoy the extreme benefit of all such other deductions as can be legally and reasonably made. The office will, therefore, consider the facts of the case in detail.

The first consideration to which the petitioner calls attention is: "That before and during the years 1861 and 1862, and afterward up to the 11th day of September, 1863, her late husband, Joseph A. S. Acklen, and your petitioner, as his wife, were resident citizens of the State of Louisiana, in the parish of West Feliciana.

"At this latter date the said Joseph A. S. Acklen departed this life, and your petitioner subsequently made her home in Tennessee. Your petitioner was and still is the owner of an undivided interest in several valuable plantations in said State of Louisiana, and the other undivided interest belonging to her four children by said Acklen, for whom she is tutrix under appointment in that State. The plantations were carried on under the management and control of her late husband, and he was entitled to an undivided half of the income, acquits, and gains."

From the above statement and the terms of the Louisiana code, it appears that an undivided half of the cotton product, the sale of which in 1864 forms the basis of said assessment, passed in September, 1863, as personal property, from Joseph A. S. Acklen to his children, constituting a legacy only, and not taxable as income.

If any profit were realized by the sale of said cotton over and above the value when the same passed to the children of Mr. and Mrs. Acklen, which is doubtful, that profit would be returnable as income of the beneficiaries. As tutrix of the children, it appears Mrs. Acklen undertook the transportation and sale of all the cotton referred to, including her own. Under these circumstances it is of course necessary to follow the disposition of that portion of the cotton belonging of right to the children, but for convenience sake the entire sales and expenses will be first considered.

I now quote from the petition a statement which leads at once to certain profits realized by the sales at New Orleans, and which appears to be borne out by the Johnson account current: "After paying the necessary expenses of getting the crops to market and the expenses of the sales at New Orleans and Government dues, including—

Internal-revenue tax	$49,197.40
Excise tax	24,598.70
Hospital fees	14,116.80

the net balance of the sales at New Orleans, as shown by the account sales and accounts current of the commission merchants, amounted to $320,713.71."

It is previously stated that the costs of shipment to Liverpool were paid out of the proceeds of sales at New Orleans, and by reference to the Johnson account it will appear that the bill of charges for shipment, insurance, etc., of 500 bales to Liverpool was $32,150, and 610 bales $40,655, which sums added to the taxes above mentioned make an aggregate of $169,716. This sum deducted from the $501,235 leaves $341,519.

Now, if the $320,713 above be deducted from $341,519, there is left $20,806 to cover Mr. Johnson's charges on sales and expenses of transportation to New Orleans.

Mr. Smiley alleges that the person who drew the petition has in some way here made a gross mistake, as he is firm in the conviction that Mr. Johnson's charges on sales above exceeded thirty thousand dollars, and refers to the Johnson account to show that not only the legitimate expenses of transportation to New Orleans were excessively large, but the expenses of counsel paid in connection with an arrest of the cotton "*in transitu*" were also very considerable.

All these expenses incident to the transportation to New Orleans are allowable deductions, and you are requested to confer with Mr. Smiley with a view to arrive at an amount which, while protecting the interest of the Government, will fully cover such expenses, so that no reasonable ground of complaint on this score can exist.

In addition to the charges covering fees of counsel, as shown in the Johnson account, and already paid, is an amount of a judgment recovered against the petitioner for $25,000 by Alexander Walker, for services in getting said crops to market, but which judgment was reversed on appeal, and the case remanded.

Under the circumstances, Mrs. Acklen wishes to be allowed to deduct $25,000, holding herself bound to return as future income so much thereof as may be avoided in the suit; but the officer thinks she is not entitled to this deduction, but will be entitled to deduct any actual portion thereof hereafter paid from future returns of income, or make claim for tax paid on amount thereof.

So much interest-money as was paid by Mrs. Acklen on mortgage debt, and as was due to the year 1864, is also deductible.

The debt and interest at 8 per cent., when paid, about December, 1864, as appears, was $278,594; the interest due to the year 1864 appears to be about $16,880. The amount paid for average repairs of the various plantations, and the expense of carrying on the same, in 1864, are also among the deductions which the law allows.

Mrs. Acklen is also entitled to deduction of State and county taxes paid in 1864, as well as the national taxes above stated.

Finally, the expense of ginning and baling the cotton, not being an expense incurred in the production thereof, but rather in preparing the same for market, and part of which in fact was accomplished at the city of New Orleans after transportation is a subject of deduction. As the major part of this expense was incurred before Johnson & Co. had any connection with the business of Mr. Acklen, and was evidently paid out of the advancements made to Mrs. Acklen by Wilson & Co., the amount will not be found in the Johnson account, and in estimating the aggregate you will be obliged to rely upon other sources of information.

Mr. Smiley has several letters from persons (some of whom are known to the office) who have had experience in such matters, which he will lay before you, by the aid of which, together with the accounts kept by Mr. Acklen, if any, and your own experience and knowledge, you can arrive at the probable expenses.

The $248,956 sales at Liverpool, as you will see from the Schroeder account, represent the net profit after deduction of the charges incurred in England. This was in gold; but unless the same was sold there is no premium to be returned. If sold the premium is returnable as income of the year of sale. Adding the sales of Liverpool ($248,965) and the sale of New Orleans ($501,236), the aggregate is found to be $750,200.

You will estimate the aggregate of the deductions allowed and subtract the same from the $750,200; one-half of the remainder will represent the taxable income of Mrs. Acklen, as derived from the sales which form the basis of assessment.

From a rough and, in the nature of the case, imperfect estimate made by the office, it is thought the tax due will be found to amount to from $22,000 to $25,000.

You will please report the conclusion to which you arrive to this office.

The office takes the occasion to acknowledge its appreciation of your fidelity, and confidently hopes, with the aid of Mr. Smiley (whose disposition to represent the interests of his clients fairly, and unaccompanied with any reflection whatever upon you or your associates, is thoroughly appreciated), you will soon reach a satisfactory conclusion.

Respectfully,

THOMAS HARLAND,
Deputy Commissioner.

To JOHN MCCLELLAND,
Assessor, Nashville, Tennessee.

On the trial of the case of Cheatham and wife against Norvell, in the circuit court of the United States at Nashville, the following agreement of counsel was read as evidence:

That on the 10th day of May, 1867, John McClelland, of the fifth collection district of the State of Tennessee, made an assessment against the plaintiff, Adelicia Cheatham, of $99,726, as income-tax for the year 1864, growing out of the sale of 2,887 bales of cotton; that the said Adelicia Cheatham, on the 17th day of June, 1867, by petition, appealed to the Commissioner of Internal Revenue of the United States against said assessment.

On the 7th of October, 1867, the Commissioner, through his deputy, instructed the assessor, John McClelland, to make a new assessment.

That on the 15th day of March, 1868, a new or final assessment was made against the said plaintiff, Adelicia Cheatham, for income for the year 1864, as follows:

Net income for the year 1864	$301,919.18
Amount in excess of $600 and not exceeding $5,000, subject to 5 per cent, $4,400	220.00
Amount in excess of $5,000, subject to 10 per cent, $297,519.18	29,751.91
Total tax and amount due	29,971.91

That on the day of , 1868, the plaintiff, Adelicia Cheatham, paid said $29,971.91 under protest in writing, and that on the 15th day of January, 1869, the plaintiff instituted this suit to recover said amount paid under protest.

The plaintiff's counsel next read to the court and jury the receipts of the defendant, Norvell, showing the dates and amounts of the several payments of the said assessment, "No. 3," and made a part of this bill of exceptions.

Statement of the payment of Mrs. Acklen's income-tax, by her husband, Dr. William A. Cheatham:

April 70, 1868. By cash		$3,799.00
July 25, 1868. By cash		20,000.00
Oct. 29, 1868. By cash		8,275.00
		32,074.00
Amount of tax	$30,049.00	
Penalty on $26,250	1,312.50	
Interest on $26,250 to 1st July	529.00	
Interest on $6,250 to 1st October	187.50	
		32,074.00

H. L. NORVELL, *Collector*.

Judge Trigg, before whom the case was tried, gave the following written instructions to the jury:

First. That by the laws of the State of Louisiana the crops of cotton of 1861 and 1862 were the property of Joseph A. S. Acklen, the late husband of the plaintiff, Adelicia, at the time of his death, in 1863, and when she sold said crops of cotton in 1864, as administratrix of her said late husband, after paying the community debts of her husband and herself, and his individual debts, if he owed any such, one-half of the net balance of the proceeds of said cotton passed to said plaintiff, Adelicia, by the laws of the State of Louisiana, was not liable to pay any tax or duty in her hands under the act of Congress.

Second. That the crops of cotton raised in the years 1861 and 1862, respectively, were the annual products of those years, and could not be taxed as income for the year 1864 under the act of Congress of June 30, 1864.

Third. That it is the opinion of the court, and it so charges, that the assessment of said income against the plaintiff, Adelicia Cheatham, was erroneous and illegal, and made without the authority of law. Although the court is of the opinion that the assessment was illegal, yet it thinks, and so charges, that this case depends solely upon the construction of the nineteenth section of the act of 13th of July, 1866.

The court is of the opinion that the said nineteenth section is not a statute of limitations, as has been suggested, but it is a right given by Congress to all persons who feel that they have been illegally or erroneously assessed to sue to recover back money paid and exacted illegally, but only when they have complied the provisions of section of said act. It is a condition without doing which the parties have no action.

When a person shall deem himself illegally or erroneously assessed, before he can maintain suit in any court he must appeal to the Commissioner of Internal Revenue, according to the provisions of the law in that regard, and a decision of said Commissioner shall be had thereon, and suit must be brought within *six months* from the time of said decision, or within six months from the time this act takes effect. However, if said decision is delayed more than six months from the date of such appeal the said suit may be brought at any time within twelve months from the date of such appeal.

Now, if the jury shall believe from the evidence that the decision made by the Commissioner of Internal Revenue was made within six months from the 17th day of June, 1867, when this appeal was taken, then, under the 19th section of the act of 13th July, 1866, the plaintiffs must have brought their suit within six months from the date of that decision, and unless they do so they can not maintain this suit and the jury must find for the defendant.

Under section 3220 of the Rev. Statutes U. S., there is no doubt that the record of a proceeding against a tax collector is as binding on the United States as if the Government was an actual party to the suit in the cases therein referred to, and so your committee have considered the record in this case.

In Judge Trigg's opinion the plaintiffs, Cheatham and wife, could not succeed, because they had not brought their suit within six months from the date of Deputy Commissioner Harlow's decision, which was October 7, 1867.

The suit was brought 15th January, 1869, which was within six months from the date of the last payment made to Norvell, tax collector.

The Supreme Court of the United States, in affirming Judge Trigg's decision, do not dissent from his conclusion "that the crops of cotton raised in the years 1861 and 1862, respectively, were the annual products of those years, and could not be taxed as income for the year 1864 under the act of Congress of June 30, 1864." That court rests its decision on the sole ground that, to entitle the tax-payer to sue a tax-collector for collecting taxes upon an illegal assessment the tax-payer must first appeal from such assessment to the Commissioner of Internal Revenue.

The Supreme Court further held that as there was no appeal from the final assessment of taxes made on the 15th of March, 1868, the right of the plaintiff to obtain

redress by suit had not been perfected by a compliance with the conditions of the statutes. It is obvious, then, the two courts selected entirely different grounds on which to rest their decisions.

Upon the statutes relating to this subject the matter was by no means free from doubt and embarrassment.

It is not a matter of common right to sue a government or its agents for taxes, illegally collected. The United States accorded this right by statute upon certain conditions, and in such cases assumed to pay such recoveries as might be had against its tax-collectors.

Your committee are of the opinionthat the appeal to the Commissioner of Internal Revenue authorized by statute may be made after the collection of the money by the tax-collector as well as after the assessment of the tax and before the money is paid. And in so far as mere lapse of time is concerned the appeal may be as lawfully taken within six months after the collection of the money as within that period after the final assessment.

An assessment not made upon a return is an *ex parte* proceeding, which a tax-payer may know nothing about until the tax-collector demands payment or proceeds to enforce payment by seizure of property for sale.

The tax-payer is forbidden by statute (section 3224, Rev. Statutes) to sue for the purpose of restraining the assessment or collection of any tax. He can not sue, therefore, until after the tax has been collected.

It is not fairly to be imputed to negligence or to *laches* that Mr. and Mrs. Cheatham did not bring suit until after they had paid the taxes assessed against them in March, 1868. Until they had paid all the taxes assessed they had no right of action for any part of what they had paid. They could not, by splitting up the payments, acquire separate causes of action against Mr. Norvell, so that they were compelled to wait until they had paid all the assessments before they could bring suit.

Mrs. Cheatham testifies, in answer to question 11 in her deposition, that on the 23d July, 1868, she made the following protest in writing against the assessment of the tax assessed against her on the 15th March, 1868:

First. More than one-half of the said assessment is based upon the proceeds of the sales of cotton of the crop of the year 1861, before there was any law of Congress laying a tax upon income.

Second. The residue of said assessment is based upon the proceeds of the sales of cotton of the crop of 1862, which crop was not liable to assessment at all under the act of 1864, as aforesaid.

Third. The tax was assessed at 10 per cent upon the income, as ascertained by the assessor, when the only law under which such assessment could be made, if legal at all, was the act of Congress of the 1st day of July, 1862, section 89, which fixes the rate at 3 per cent on incomes under $10,000, and 5 per cent on incomes over $10,000.

Fourth. The act of June 30, 1864, has been repealed by the act of Congress of the 3d day of March, 1865, and was not in force when said assessment was made.

Fifth. The act of 30th day of June, 1864, if it was in force, does not cover nor include the proceeds of crops made previous to the year 1864.

Sixth. The assessor refused to make any deduction for the subsistence of slaves and stock for the year 1864.

Seventh. The assessor refused to make any allowance for the necessary expenses of raising the crops of 1861 and 1862, and which expenses amounted, up to July, 1862, to the sum of $271,373.91, to secure which, at the time the debt was incurred, a privilege or mortgage was given by the said Adelicia and her husband, Joseph A. S. Acklen, on the crops of 1861 and 1862, and upon the plantation on which the crops were raised.

Eighth. The assessor refused to allow all the costs and expenses necessarily incurred in preserving the said crops and getting the same to market.

Ninth. The assessor made no allowance for the average repairs on said plantations for the years 1861 and 1862.

Tenth. The cotton upon which said assessment was made was raised in the parish of West Feliciana, in the State of Louisiana, in which parish the said Joseph A. S. Acklen and the said Adelicia, his wife, now Adelicia Cheatham, were resident citizens in the years 1861, 1862, 1863, and 1864, and up to the day of , 186 , after the death of the said Joseph A. S. Acklen, which occurred the day of , 186 , and the cotton never was brought to Tennessee, and ought to be assessed, if assessed at all, by the local assessors of the parish of West Feliciana, State of Louisiana.

Eleventh. The assessment should also be made, not against the said Adelicia, but against the personal representatives of the estate of Joseph A. S. Acklin.

Twelfth. The assessment of the income tax for the years 1862, 1863, and 1864 had been suspended by law in the State of Louisana, and there is no reason why the suspension should not operate upon the crops in question, nor why the said Adelicia should be made an exception to a general law.

Thirteenth. The assessment in question is, therefore, for the reasons assigned under

the three last heads, made by persons not authorized to make same, against the wrong person, and is illegal and void.

Fourteenth. The interest of said Adelicia in the plantations on which said cotton was raised was only an undivided interest of , and her share of the net proceeds or income derived from the sale thereof was only in the same proportion, and her husband, the said Joseph A. S. Acklen, was, by the laws of Louisiana, entitled to one half thereof as his share in the community acquits and gains.

Fifteenth. The assessor refused to allow the interest on the privilege or mortgage debt, except for the year 1864.

Sixteenth. Other good causes.

The payment of said income tax upon the assessment, as before said, is made under this protest, and notice is hereby given that the said Cheatham and his wife will bring their action to recover the amount so paid, or so much thereof as may have been illegally and wrongfully assessed and collected.

W. A. CHEATHAM,
For Self and Wife.

The Supreme Court held that to entitle the plaintiffs to sue the tax collector for collecting a tax so assessed, this appeal should have been made to the Commissioner of Internal Revenue, and that such appeal is essential to the right to sue.

This is the law, as correctly decided, but this law does not establish a right in the Government to take from a citizen his money, under color of collecting a tax, without any authority of law to justify the seizure. It is not even a statute of limitations, by which a wrong is sometimes sanctioned by lapse of time. If there was no law to support the assessment or the collection, when it was made, of this onerous burden, no officer of the United States could make it lawful by any act he could do or omit to do. Evidently the right of appeal to the Commissioner is not the only or even the preliminary right of the citizen to redress at the hands of the Government, when his property is taken without any color of law, and yet it may be the condition precedent on which the Government has permitted its tax collectors to be sued, so as to bind the Government by the judgments of the courts.

In case the tax is collected without any lawful authority, the tax-collector is bound personally, while the Government is in no way bound, except in honor, to refund the money after it has reached the Treasury. This property had already paid heavy taxation to the Government; and the internal-revenue taxes, amounting to $49,197.40, were of doubtful constitutionality, to say the least of it. It had also paid an excise tax of $24,598.70, and hospital fees $14,116.80. It had borne every burden that the law had imposed upon it, and it was not until after the act of June 30, 1864, which imposed an income tax, had been repealed that the first assessment of that tax was made upon the sales of cotton made in 1864.

It is true beyond question that this income tax was not supported by the law, and its collection, against the earnest written protests of Mr. and Mrs. Cheatham, carried so much money into the Treasury by duress of governmental power, to which the Government had no right. It is the rightful property of Mrs. Cheatham.

It would not comport with the honor of the Government to retain this money upon the merely technical ground that it could not be recovered by suit.

The argument that laches is imputable to Mr. and Mrs. Cheatham is not sound. She mistook her rights and failed to secure redress for her grievance by the merest technicality. The Government was not in any way compromised by the delay of Mrs. Cheatham to bring suit, and should not by its example encourage or incite the people to regard it as a violation of its own laws when, by using its power to collect taxes contrary to law, it seizes the property of a citizen and refuses to restore it.

APPENDIX B.

TRANSCRIPT OF RECORD.—SUPREME COURT OF THE UNITED STATES.

WILLIAM A. CHEATHAM AND ADILICIA CHEATHAM, his wife, plaintiffs in error, *vs.* HENRY L. NORVELL, COLLECTOR OF INTERNAL revenue.	No. 160. Filed March 16, 1874.

In error to the circuit court of the United States for the middle district of Tennessee.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the judges of the circuit court of the United States for the district middle Tennessee, greeting:

Because in the record and proceedings, and also in the rendition of a judgment of a plea which is in the said circuit court before you between William A. Cheatham and

wife, Adelicia Cheatham, plaintiffs, and Henry L. Norvell, collector, defendant, a manifest error hath happened, to the great damage of the said William A. Cheatham, as by complainant appears, we, being willing that the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you may have the same at Washington on the second Monday of October next, in said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable Nathan Clifford, eldest associate justice of said Supreme Court, the 21st day of November, in the year of our Lord one thousand eight hundred and seventy-three.

[SEAL.] E. R. CAMPBELL,
Clerk of the Circuit Court for the Middle District of Tennessee.

UNITED STATES OF AMERICA, *ss:*

To Henry L. Norvell, collector, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of middle Tennessee, wherein William A. Cheatham and wife, Adilecia Cheatham, are plaintiffs, and you are the defendant in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done to parties in that behalf.

Witness the honorable Nathan Clifford, eldest associate justice of said Supreme Court of the United States, this 21st day of November, in the year of our Lord one thousand eight hundred and seventy-three.

CONNALLY F. TRIGG,
U. S. District Judge, Presiding.

I acknowledge service of the above citation and the receipt of a copy of the same. Nashville, Tenn., November 21, 1873.

A. M. HUGHES,
U. S. Att'y and Att'y for Def't.

MIDDLE DISTRICT OF TENNESSEE, *ss:*

At a circuit court of the United States, begun and held at the capitol of said State, in Nashville, on the third Monday, being the 20th day, of October, in the year of our Lord eighteen hundred and seventy-three, and of the Independence of the United States the 98th.

Present, the Hon. Connally F. Trigg, United States district judge for the several districts of Tennessee.

Present, also, Edward R. Campbell, esq., clerk of said court, and Wm. Spencer, esq., marshal of said district.

The following proceedings were had, to wit:

On the 30th day of January, 1869, a petition for a certiorari was filed; which is as follows:

To the judges of the circuit court of the United States for the middle district of Tennessee:

The petition of Henry L. Norvell, collector of U. S. internal , respectfully showeth as follows:

Petitioner, as such collector, was appointed under and has ever acted under, and by authority of, the act of Congress entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," passed June 30, 1864, and of the subsequent acts of Congress in addition thereto and in amendment thereof. As such collector, it was his duty, under said acts of Congress, to collect the income tax assessed by the assessor for his collection district upon William A. Cheatham and Adelicia, his wife, or rather the latter, for the year 1864. Said income tax had been duly assessed upon said persons for said year, and the same was duly collected by petitioner, as the duties of his said office required that it should be. The tax was, however, paid by said persons unwillingly, under protest, they imagining that they did not owe the same and were

not liable to the amount thereof, as to which petitioner is advised and believes they were wholly in error. A portion of the money so paid and collected was the penalty legally imposed upon the parties for their default in promptly complying with the requirements of the laws of Congress relating to said matter. Said Cheatham and his said wife, on January 15, 1869, sued out a writ of trespass on the case on promises against petitioner in the circuit court of Davidson County, Tennessee, claiming from him damages in the amount of forty thousand dollars. Said writ, which was returnable to the January term, 1869, of said court, did not indicate the cause of said action, nor does the declaration, filed on Jan. 26, 1869, shed any light upon this matter, the same containing simply a count for money had and received to the use of said plaintiffs, under which divers and sundry matters might be given in evidence. Nevertheless, petitioner avers that said suit was brought solely to recover from him the amount of said tax so paid to him as such collector as aforesaid. Said writ was served upon petitioner within the district aforesaid. The premises considered, petitioner prays that a writ of certiorari issue to said circuit court of Davidson County, requiring said court to send to the circuit court of the United States the record and proceedings in said cause, and that thereupon said cause be docketed in said U. S. court, and thereafter proceeded in as a cause originally commenced in said court.

R. McP. SMITH,
U. S. Dist. Att'y.

Affiant makes oath that the matters set forth in the foregoing petition are true to the best of his knowledge, information, and belief.

H. L. NORVELL.

Sworn to and subscribed to before me Jan. 27, 1869.

R. McP. SMITH,
U. S. Circuit Court Comm'r.

I hereby certify that I have, as counsel for the foregoing petitioner, examined the proceedings against him mentioned in the foregoing petition, and carefully inquired into all the matters set forth in said petition, and that I believe the same to be true.
January 27, 1869.

R. McP. SMITH,
U. S. Attorney.

On the 30 day of January, 1869, a certiorari was issued, which is as follows:

The President of the United States of America to the Hon. Eugene Cary, judge of the circuit court of Davidson County, in the State of Tennessee, greeting:

A petition, duly sworn and certified to, having been filed in the U. S. circuit court for the middle district of Tennessee, by Henry L. Norvell, collector of U. S. internal revenue, etc., stating that a suit is pending and undetermined in said State court, brought by Wm. A. Cheatham and wife against him as such collector, claiming from him $40,000 damages; which suit, it is further alleged, was so brought solely to recover from said collector the amount of income tax and penalty duly collected by him from said persons in accordance with the U. S. internal-revenue laws (being, however, paid under protest); the process issued on said suit being served upon said collector in this judicial district, said petition praying to have said suit removed into the said U. S. court, etc.

Now, therefore, you are hereby required to cause to be sent to said U. S. court the record and proceedings in said cause, certified under your seal, to be therein proceeded in as if therein originally commenced. And you are also further required to stay all further proceedings in said cause in said State court.

Witness the Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at Nashville, this the third Monday in October, 1868, and the 93d year of the Independence of the United States.

[SEAL OF THE U. S. CIR. CT.] E. R. CAMPBELL, *Clerk.*

Upon the back of said certiorari is indorsed the following return of the marshal:

Came to hand same day issued. Executed upon Eugene Cary, esq., judge of the circuit court of Davidson County, Tennessee, by making known to him the contents of the within certiorari, Feb'y 2, 1873.

E. R. GLASCOCK,
U. S. Marshal.

On the 10th day of Feb'y, 1869, a transcript of the record and proceedings had in the circuit court of Davidson County, Tennessee, was filed, which is as follows:

STATE OF TENNESSEE:

Pleas at the court-house, in the city of Nashville, county of Davidson, and State aforesaid, on the fourth Monday, being the 25th day of January, in the year of our Lord one thousand eight hundred and sixty-nine, and in the 93rd year of American Independence. Present the Hon Eugene Cary, one of the judges of the circuit courts of the State of Tennessee, and assigned to hold the circuit courts of the nineteenth judicial circuit of said State.

State of Tennessee to the sheriff of Davidson County, greeting:

You are hereby commanded to summon Henry L. Norvell, U. S. collector of income tax, if to be found in your county, to be and appear before the judge of the nineteenth circuit, at the next circuit court to be held in the county of Davidson, at the court-house in the city of Nashville, on the fourth Monday in January next, then and there to answer William A. Cheatham and Adelecia Cheatham, his wife, in a plea of trespass on the case on promises, to their damage forty thousand dollars. Herein fail not, and have you then and there this writ.

Witness David C. Love, clerk of our said court, at office, this first Monday in September, A. D. 1868, and in the ninety-third year of our Independence.

DAVID C. LOVE, *Clerk.*
By J. F. HIDE, *D. C.*

Know all men by these presents that I, William F. Cooper, am held and firmly bound unto Henry L. Norvell, U. S. tax collector, in the sum of two hundred and fifty dollars, to be void on condition that William A. Cheatham and Adelecia, his wife, do pay and satisfy all costs that may accrue in their behalf in the prosecution of a suit this day commenced by them in the circuit court of Davidson County, Tenn., against the said Norvell.

Witness my hand this the 15th day of Jan'y, 1869.

W. F. COOPER.

Issued 15th day of January, 1869; came to hand and executed January 16, 1869, by reading to Henry L. Norvell. U. S. collector of income tax. January 16, 1869.

C. M. DONALDSON, *Sheriff.*

Declaration.

Circuit court, January term, 1869.

STATE OF TENNESSEE,
Davidson County:

William A. Cheatham and Adelecia Cheatham, his wife, by attorneys, complain of Henry L. Norvell, U. S. collector of income tax, who has been summoned to answer them in a plea of trespass on the case on promises, to their damage forty thousand dollars.

For that whereas the said defendant heretofore, to wit, on the day of , 18 , was indebted to the said plaintiff in the sum of forty thousand dollars for so much money by the said defendant had and received to and for the use of the said plaintiffs, and, being so indebted, he, the said defendant, in consideration thereof, afterwards, to wit, on the day and year aforesaid, at Davidson aforesaid, undertook and then and there faithfully promised the said plaintiffs to pay them the said sum of money when he, the said defendant, should be thereunto afterwards requested; nevertheless, the said defendant, not regarding his promises and undertakings, but contriving and fraudulently intending craftily and subtlely to deceive and defraud the said plaintiffs in this behalf, hath not as yet paid the said sum of money, or any part thereof, to the said plaintiffs, although often requested so to do, and the said defendant to pay the same hath hitherto wholly neglected and refused, and still doth neglect and refuse, to plaintiffs' damage forty thousand dollars; and therefore they sue.

W. F. & H. COOPER,
Attorneys for plaintiffs.
HIDE, *D. C.*

Filed January 26, 1869.

Defendant's plea.

Circuit court of Davidson County, January term, 1869.

W. A. CHEATHAM AND WIFE
vs.
HENRY L. NORVELL, COLLECTOR, ETC.

Defendant, for plea to plaintiffs' declaration, says that he did not undertake and promise as therein alleged, and of this he puts himself upon the country.

R. McP. SMITH,
U. S. Att'y for defendant.
HIDE, *D. C.*

Filed January 29, 1869.

W. A. CHEATHAM ET AL.
vs.
HENRY L. NORVELL, U. S. TAX-COLLECTOR.

At the January term, 1869, of the circuit court, and on the 2d day of Feb'y, 1869, the following entry is made, to wit:

In this cause notice having been issued and served requiring this cause to be removed from this court to the U. S. circuit court for the middle district of Tennessee, there to be tried, it is ordered by the court that the clerk of this court make out and certify said cause to said U. S. circuit court for the middle district of Tennessee.

STATE OF TENNESSEE:

I, David C. Love, clerk of the circuit court for Davidson County, State aforesaid, do hereby certify that the foregoing is a correct transcript of the record and proceedings had in said court, wherein W. A. Cheatham et al. plaintiffs, and Henry L. Norvell, U. S. tax collector, defendant, as the same remains of record and on file in my office.

SEAL OF THE CIRCUIT COURT OF DAVIDSON CO., TENN. In testimony whereof I hereunto subscribe my name and affix the seal of said court, at office in Nashville, the 4th day of Feb'y, in the year 1869, in the 93rd year of American Independence.

DAVID C. LOVE, *Clerk.*

On the 25th day of October, 1873, the following notice of defenses was filed by the defendant:

W. A. CHEATHAM AND WIFE
vs.
HENRY L. NORVELL, COLL'R.

To Hon. W. F. Cooper and John C. Gant, attorneys for W. A. Cheatham and wife.

You are hereby notified that the defendant, H. L. Norvell, in the case of W. A. Cheatham and wife *vs.* H. L. Norvell, pending in the circuit court of the United States for the middle district of Tennessee, will rely, under the general issue, upon the following defenses:

First. That the taxes were properly assessed.

Secondly. That no appeal was made to the Commissioner of Internal Revenue of the United States in manner and form as required by law.

Thirdly. That, if there was an appeal to the Commissioner, suit was not brought within six months from the date of the decision of the Commissioner, and within one year from the date of filing the appeal.

A. M. HUGHES,
Att'y for def't.

On the 6th day of November, 1873, an entry was made on the minutes; which is as follows:

WILLIAM A. CHEATHAM AND HIS WIFE, ADELECIA CHEATHAM,
vs.
HENRY L. NORVELL, COLLECTOR.

Came the parties, by their attorneys, and came also a jury of good and lawful men, to wit: Wm. Anderson, E. A. Mathis, C. W. Smith, John C. Webb, John A. Hamlin, Wm. Morton, Joseph Whelep, A. B. Payne, J. B. Clements, C. L. Wilcox, Theo.

Knoch, and D. M. Logan, who, being elected, tried, and sworn well and truly to try the issue joined, after hearing a portion of the evidence, were respited until to-morrow morning at 10 o'clock.

On the 7th day of November, 1873, an entry was made on the minutes; which is as follows:

WILLIAM A. CHEATHAM AND WIFE, ADELECIA Cheatham,
vs.
HENRY L. NORVELL, COLLECTOR.

Came again the parties, by their attorneys, and came again also the same jury empanneled in this cause on yesterday, who, after hearing the balance of the evidence and the argument of counsel, were respited until to-morrow morning at 10 o'clock.

On the 8th day of November, 1873, an entry was made on the minutes, which is as follows:

WILLIAM A. CHEATHAM AND WIFE, ADELECIA Cheatham,
vs.
HENRY L. NORVELL, COLLECTOR.

Came again the parties, by their attorneys, and came again also the same jury heretofore empannelled in this cause, and said jury was thereupon respited until Monday morning next at 10 o'clock.

On the 10 day of November, 1873, an entry was made on the minutes, which is as follows:

WILLIAM A. CHEATHAM AND WIFE, ADELECIA Cheatham,
vs.
HENRY L. NORVELL, COLLECTOR.

Came again the parties, by their attorneys, and came again also the same jury heretofore empannelled in this cause, who, after hearing the charge of the court, upon their oaths do say that they find the issues in favor of the defendants. It is therefore considered by the court that the defendant go hence without day, and recover of the plaintiffs and W. F. Cooper, their security on the prosecution-bond in this cause, the costs of this cause, and that fi. fa. issue for the same. Thereupon the plaintiffs, by their attorneys, move the court to set aside the verdict of the jury and grant them a new trial; which motion was continued over for argument.

On the 21 day of November, 1873, an entry was made on the minutes, which is as follows:

WILLIAM A. CHEATHAM AND WIFE, ADELECIA Cheatham,
vs.
HENRY L. NORVELL, COLLECTOR.

Came the parties, by their attorneys, and the motion of the plaintiffs for a new trial was by the court overruled; and thereupon the plaintiffs, by their attorneys, tendered to the court their bill of exceptions to the rulings of the court at the trial, which was signed and sealed by the court, and ordered to be made a part of the record of said cause.

On the 21 day of November, 1873, a bill of exceptions was filed, which is as follows:

W. A. CHEATHAM AND HIS WIFE, ADELECIA Cheatham,
vs.
HENRY L. NORVELL, COLLECTOR, &c.

Be it remembered that on this and a former day of this the October term, 1873, of the circuit court of the United States of America for the middle district of Tennessee, at Nashville, this cause came on for trial before the honorable Connally F. Trigg, judge of the district court of the United States for the middle district of Tennessee, and holding the circuit court of the United States for said middle district of Ten-

Question 10. State whether the final assessment made, and which was paid by you under protest as aforesaid, was not as follows:

Income tax on $4,400.00, at 5 per cent	$520
" " 297,519.18, at 1 per cent	29,751.91
	29,971.91

Answer. The local assessor at Nashville, Tennessee, did make a new and final assessment against deponent on the day of , 1868, as tax upon deponent's share of said cotton for the year 1864, as follows:

Income tax on $4,400.00, at 5 per cent	$220.00
" " 291,549.18, at 10 per cent	29,751.91
	$29,971.91

Question 11. Was the payment of this assessment made under protest? If so, make the protest a part of your deposition.

Ans. 11. The payment of this assessment was made under protest, on or about the 23rd of July, 1868, a true copy of which is hereto annexed, marked "Exhibit D," and made a part of this deposition.

Ques. 12. You have stated that the crops on which the assessment was made were raised in the parish of West Feliciana, State of Louisiana, in the years 1861 and 1862. What number of bales of cotton produced the income thus assessed, and of this number how many bales were of the crop of 1861 and how many of the crop of 1862?

Ans. 12. The crops of cotton 1861 and 1862 produced twenty-eight hundred and eighty-seven bales (2,887), and I believe over two thousand bales were of the crop of 1861, and the residue were of the crop of 1882.

Ques. 13. To whom did these crops or proceeds belong, under the laws of Louisiana?

Ans. 13. I have always been informed, and believed, that said crops of cotton belonged to the late Colonel Acklin, and the proceeds belonged to his estate after his death, by the laws of the State of Louisiana, and that by the laws of said State, after the payment of the debts of Colonel Acklin, and the community debts, one-half the net proceeds belonged to me as his wife and widow, and the other half of said net balance belongs to his said four children and heirs, to be equally divided between them. This is, however, a legal question, to be determined by the laws of the State of Louisiana, and I may be in error.

Ques. 14. These crops were raised by the labor of slaves, and the use of horses, mules, oxen, cattle, etc.; what was the cost of the subsistance and clothing of these slaves, and of the subsistence of the horses, mules, oxen, cattle, etc., for the years of 1861 and 1862, and how and by whom was this cost paid?

Ans. 14. Said crops of cotton were raised by the labor of slaves, and the use of horses, mules, oxen, cattle, etc., farming tools, implements, etc., but I am unable to state the cost of the subsistence and clothing of these slaves, their medical bills, etc., and of the subsistence of the horses, mules, oxen, and other cattle, and the salaries of overseers, etc., for said years of 1861 and 1862; but I think my petition to the Department and schedule Exhibit No. 1 thereto, above referred to and made a part of this deposition marked "C," states the facts as fully as I can, and I believe they approximate to the truth, and, therefore, without repeating the various items in detail, I refer to said petition and schedule marked "Exhibit C" as my answer to this question. The costs incident to the raising of the said crops of 1861 and 1862 were very great, and especially in the year 1862 the cost of supplies had run up to fabulous prices, and had to be purchased on time, or with money advanced by our commission merchants, or with borrowed money, all of which was paid by me, after the death of Colonel Acklin, out of the proceeds of said cotton.

Question 15. Was there any privilege, lien, or mortgage given by you or your husband upon the crops of these years, for the debt incurred or money raised to meet the outlay for those farms in the subsistence and clothing of the slaves and subsistence of the live stock as aforesaid? If so, please explain the nature and character of the same, the amount secured, and by whom, when, and how the debt was finally paid.

Ans. 15. There was a mortgage given in the name of Colonel Acklin and myself upon the Louisiana plantation, and a part of the slaves, and a privilege lien upon the crops, to secure a very large debt and further advances, to Bradley Wilson & Co., of the city of New Orleans, Louisiana, and afterwards Col. Acklin gave a privilege lien upon the crops for between thirty and forty thousand dollars more, all of which I paid out of the proceeds of said cotton, on the 20th of May, 1864, to Bradley Wilson & Co., amounting to $278,594.86, including interest.

After I succeeded in getting said cotton to the city of New Orleans and ready for market, the said Bradley Wilson & Co. notified me of their lien upon said cotton

(which was for a larger sum than I supposed), and that I could not remove said cotton until their said debts and interest were paid, but that I might sell on condition their said debts were paid out of the proceeds. I therefore sold cotton and paid the debts and interest. I do not remember of giving my assent to said mortgage, or having given a power of attorney to anyone authorizing the use of my name in the execution of said mortgage, though I may have given a power of attorney authorizing the use of my name, or authorizing the execution of the mortgage. I know that I and my children were at our residence near Nashville, and that Col. Acklin came to Tennessee, bringing with him notes bearing date in the city of New Orleans, La., for me to sign, amounting in the aggregate to a very large amount, stating, in substance, that Bradley Wilson & Co. refused to make any further advances for supplies for said plantation unless said notes were signed, to cover the debt and interest then said to be due to Bradley Wilson & Co. which had been running for some time, and to cover the advances supposed necessary to make a crop that year, and that the crop could not be made that year without said advances. This was the first year of the war, in the spring of 1861. But she was informed that the exigencies of the war, and the navigation of the Upper Mississippi being cut off, the supplies before the end of the year ran up to fabulous prices when they could be bought at any price, and therefore Col. Acklin was compelled to give a privilege lien upon the crops for further advances, as before stated, before the year closed. But it is true, as before stated, as she is informed and believes, that a mortgage was given by Col. Acklin and by Mr. Nelson, in her name, as her attorney in fact, upon said plantations, or a part of them, and a number of slaves, and upon the crops. And it may be true that she signed a power of attorney authorizing Mr. Nelson to sign her name with her said husband in the execution of said mortgage. If she did so she has forgotten that part of the transaction. But her belief is that Mr. Nelson would not have used her name in the execution of said mortgage without a power of attorney from her, or what he believed to be authority from her.

Question 16. Was any deduction allowed by the U. S. assessor for the subsistence and clothing of said slaves, or the subsistence of said live stock, out of the proceeds of the crops of 1861 and 1862, raised and sold as aforesaid? If so, state the amount thus allowed.

Answer. The assessor refused, as I now remember, to make any deduction for the subsistence of the slaves and live stock upon said plantations for the year 1864, and he refused to allow any deduction out of the proceeds of said cotton for the subsistence and clothing of said slaves and the subsistence of the live stock upon said plantations for the years 1861 and 1862.

Question 17. Were you or Col. Acklin at any, and what, expense for the subsistence and clothing of said slaves, and subsistence of said live stock, on said plantations for the years 1863 and 1864? If so, was any, and what, allowance or deduction made in said assessment, made as aforesaid for the same?

Answer. Col. Acklin and myself incurred a very heavy expense for the subsistence and clothing of said slaves, and subsistence of the live stock upon said plantations, in the years 1863 and 1864, but said assessor refused to allow any deductions for the same out of the proceeds of said cotton, as I now remember. In the years 1863 and 1864 the late war was then pending; no crops of cotton of any consequence or of any thing else was raised upon said plantations. The number of slaves upon the plantations when the war began was about 1,500. In 1863 and 1864 the slave labor could not be controlled. In fact many of the able-bodied slaves, especially of the males, had left the plantations in one way and another, but the aged and infirm of both sexes, and the women and children, remained upon the plantations, and all had to be fed and clothed and have medical attention, and the stock had to be kept and subsisted. I am not able now to state said expenses for said years. Also many of said slaves had to be subsisted in the years 1864 and 1865, all of which I paid out of the proceeds of said cotton.

Question 18. Was any allowance or deduction made in the assessment for the necessary expenses in raising the crops of 1861 and 1862, and of storing and preserving the same up to the time of sale, or for average or other repairs of the plantations on which the crops were raised for the years 1861 and 1862, or for taxes paid for these years?

Answer. No allowance or deduction was made by said assessor for the necessary expenses of raising the crops of 1861 and 1862, or for taxes, or for storing or preserving the same up to the time of sale, or for average or other repairs of the plantations on which said crops were raised for the years 1861 and 1862, or for any year except the year 1864. For the year 1864, in which said cotton was sold, my recollection is that $10,000.00 was deducted from the proceeds of said cotton, supposing that said sum of $10,000 would be the average annual repairs for said plantations; that is to say, the assessor assumed that $10,000 would be the average repair each year upon said plantations, and he deducted the same for the year 1864 from the proceeds of said cotton.

Question 19. Did the assessor allow any of the objections made by you and Dr.

Cheatham, and subsequently embodied in the written protest exhibited with your deposition?

Answer. Said assessor did not allow any of the objections made by me and my husband, Dr. Cheatham, which were subsequently embodied in said written protest, marked "Exhibit D," to my deposition.

Question 20. Did the defendant, as tax collector, allow you any of said objections, or did he proceed to collect the whole of the assessment?

Answer. The defendant Norvell, as collector of internal revenue and taxes for said district, did not allow any of said objections, but he proceeded to collect the whole of said assessment, and more too. And deponent begs leave to add that said cotton was removed from said plantations in time of war; in rear of said plantations the Codfederate cavalry held the country, and the United States forces occupied the river; said cotton was removed under much danger and at very great cost, at war prices; and she is certain that many items of expenses have been omitted. She omitted to state at the proper place that she not only had an undivided interest in the plantations upon which said cotton was raised, but also an interest in the slaves and stock, etc. But as I have always been informed that by the laws of the State of Louisiana the husband is the head and master of the community, and can manage and control and dispose of the acquits and gains and products as he may choose, and that said cotton belonged to Col. Acklin, and on his death, after the payment of his and the community debts, one-half of the net proceeds of said cotton passed to this deponent, and the other half to Col. Acklin's children; and your deponent was and is informed and believes that said portion passing to her on the death of Col. Acklin was not subject to any tax or duty; but this is a legal question, and she may be in error.

ADELECIA CHEATHAM.

Sworn to and subscribed before me Nov. 15, 1872.

E. R. CAMPBELL, *Clerk.*

Exhibit A to deposition of Adelecia Cheatham.

To the honorable the judge of the seventh judicial district court of the State of Louisiana, holding sessions in and for the parish of West Feliciana:

The petition of Joseph A. S. Acklen, at present residing in said parish, respectfully represents, that he is a citizen of the State of Alabama, but for the last three years a citizen and resident of Louisiana, except for a few months during the summer; now, under the provisions of the laws of this State, claims to have his citizenship made a matter of public record. Therefore he prays your honor that this his declaration of domicile be received and made a part of public record according to law, and that your petitioner have all other relief that the nature of his case demands.

JOSEPH A. S. ACKLEN.

Having considered the foregoing petition, it is ordered that the same be received and filed according to law.

April 6, 1862.

CHARLES B. COLLINS, *Clerk.*

Filed April 6, 1862.

CHARLES B. COLLINS, *Clerk.*

STATE OF LOUISIANA,
Parish of West Feliciana.

SEVENTH JUDICIAL DISTRICT COURT, CLERK'S OFFICE.

I certify the foregoing to be a true copy of the original now of record and on file in my office.

Given under my official signature and seal this 29 day of March, A. D. 1853.

[SEAL.] CHARLES B. COLLINS,
Clerk of said Court.

UNITED STATES OF AMERICA,
State of Louisiana:

By Paul O. Hebert, governor of the State of Louisiana.

These are to certify that Charles B. Collins, whose name is subscribed to the instrument of writing herein annexed, is, and was at the time of subscribing his name to said instrument, clerk of the district court for the seventh judicial district of the State of Louisiana in and for the parish of West Feliciana, and that his attestation to the same is made in due form of law and by the proper officer.

Given at Baton Rouge, under my hand and seal of the State, this 5th of April, A. D. 1853, and of the Independence of the United States the 77th.

[SEAL OF THE STATE OF LA.] P. O. HEBERT.

By the Governor:

ANDREW S. HERRON,
Secretary of State.

Exhibit B in deposition of Adelecia Cheatham.

Declaration of domicil by Mrs. Adelecia Franklin.

To the honorable the judge of the district court for the seventh judicial district, parish of West Feliciana, State of Louisiana, having the power of and authority of the late judge of said parish of West Feliciania in matters of domicil.

The petition of Adelecia Hays, the widow and relict of Isaac Franklin, deceased, respectfully shows that your petitioner, by the death of her two daughters, Victoria and Adelecia Franklin, has inherited a considerable estate in lands, slaves, and movable property, situated in the said parish of West Feliciana, and remaining in kind, undivided, with the property of the succession of her late husband, Isaac Franklin to be administered by the executors of the last will and testament of her said husband, and divided when the ameliorations of said succession and the payment of the specific legacies therein mentioned *and* made; that the petitioner has good reason to believe that those ameliorations and payments will be completed and paid within two years, and that a division of the aforesaid property will be made so that your petitioner will receive and administer the aforesaid property which she inherited from her said children; that she is desirous of acquiring a residence in said parish, and in conformity with law declares her age to be twenty-eight; that she is a native of the State of Tennessee, and a gentlewoman, and designs to follow the pursuits of a planter on her said estate. She therefore prays that this notice be received and recorded in the office of recorder of mortgages in conformity with law.

ADELECIA FRANKLIN.

Let the prayer of this petition be granted.

WM. D. BOYLE,
Judge of the Seventh Judicial District.

MAY 22, 1847.
Truly recorded, May 22, 1847.

STATE OF LOUISIANA,
Parish of West Feliciana:

I certify the foregoing to be a true and correct copy of the record of the act of declarations of domicile of Mrs. Adelecia Franklin, as taken from notarial record-book I, page 370, in my office, having first made diligent search for the original of said act and not finding the same on file in my office.

Given under my signature and seal official this 31 day of March, 1853.

[SEAL.] B. HARALSON,
Recorder.

UNITED STATES OF AMERICA,
State of Lousiana:

By Paul O. Herbert, governor of the State of Lousiana

These are to certify that B. Haralson, whose name is subscribed to the instrument of writing herein annexed, is, and was at the time of subscribing his name to said instrument, recorder in and for the parish of West Feliciana, State aforesaid, and that his attestation to the same is made in due form of law and by the proper officer.

Given at Baton Rouge, under my hand and the seal of the State, this 5th day of April, A. D. 1853, and of the Independence of the United States the 77th.

[SEAL OF THE STATE.] P. O. HEBERT.

By the governor:

ANDREW S. HERRON,
Secretary of State.

Exhibit C to deposition of Adelecia Cheatham.

EXHIBIT C.

To the hon'l :

Your petitioner, Adelicia Acklin, a citizen of Davidson County, Tennessee, would respectfully state that before and during the years 1861 and 1862, and afterward up to the day , 1864, her late husband, Joseph A. S. Acklen, and your petitioner as his wife, were resident citizens of the State of Louisiana, in the parish of West Feliciana. At the later date the said Joseph A. S. Acklen, departed this life, and your petitioner subsequently made her home in Tennessee. Your petitioner was and still is the owner of an undivided interest in several valuable plantations in the said State of Louisiana, the other undivided interest belonging to her four children by said Ack

len, for whom she is tutrix under appointment in that State. The plantations were carried on, however, under the management and control of her late husband, and he was entitled to an undivided half of the income, acquits, and gains. At the commencement of the year 1861 the said plantations were in a flourishing condition, and were during that year worked with reasonable diligence in the production of the great staple crop of cotton, and the yield was something like a fair average. But the difficulty of furnishing subsistence, clothing, and other necessary supplies for the fifteen hundred negroes then on the plantations increased as the year advanced, and the expenses were enormously enhanced before the close of the year. The occupation of the Upper Mississippi River by the United States troops in the fall of 1861 cut off the usual supplies, and the ordinary necessaries of life ran up to fabulous prices. As early as September meat was worth $30 a barrel in coin, and subsequently went up to $50 and upwards. Under these circumstances your petitioner and her husband were compelled to contract and did contract for loans of money with thier commission merchants at New Orleans at eight per cent per annum interest, secured by a privilege or mortgage on the plantation, slaves, and growing crops, which funds were absolutely necessary for keeping up the plantations, and were so applied.

Your petitioner now has before her a letter from Bradley, Wilson & Co., of New Orleans, her commission merchants, written in the fall of 1861, which shows that the liabilities they had thus incurred for your petitioner and her husband, by advances in 1861 and acceptances maturing in that year, and in 1862, up to July, amounted to $231,373.91. And this debt, with 8 per cent interest, was subsequently, in 1864, paid to them or their assignees out of the proceeds of the sale of the crop of 1861, the whole sum thus paid being $278,594.86.

Your petitioner would further state that the increased difficulties of obtaining supplies, the absolute necessity of raising provisions, and the impossibility of regulating and controlling the labor of the slaves largely diminished both the planting and yield of cotton in the year 1862. Your petitioner is fully satisfied that the yield of the cotton crop of 1862 was not the one-third of the year 1861, and the expenses of carrying on the plantation were greater. Your petitioner's husband was compelled to make, and did make, great sacrifices to enable him to go through the season. The cotton crop of 1861 had been ginned and baled, but the crop of 1862, on account of the running off the stock, and the impossibility of procuring bagging and rope, remained in the seed until, in the summer of 1864, sacks were procured and brought up from New Orleans, and the cotton, at great expense and hazard, taken to New Orleans and there ginned and baled. Your petitioner is thus particular in stating these facts in order that it may be clearly seen that her agent, in the estimate hereinafter mentioned of the net proceeds of the crop of 1862, was fully justified by the facts, and that he erred, in reality, in making the amount larger than it should have been.

Your petitioner supposed that the crops having been the produce of plantations in Louisiana, where she and her husband were at the time domiciled, and in which her husband, herself, and her children had an undivided interest, that she was not expected to make return thereof under the internal-revenue laws of the United States, unless required to do so by the local assessors of that State, where the facts were known and could easily be established. She was also advised that no effort was being made to collect the income tax for the years 1862, '3, and '4 in the State of Louisiana, and that it was neither right nor just to make *to make* an exception of her case to the general rule. Accordingly she did not make any return of the proceeds of the crop of 1862 in her return of income in Tennessee. Recently, however, a special agent of the Treasury Department at Washington applied to petitioner's agent for a return of the sales of said crop. Said agent of the Treasury Department stated that the act of Congress of , 1862, did not, nor did any of the subsequent acts in relation to the tax on incomes, reach back to the crop of 1861, and that what your petitioner was required to do was to return her income in the crop of 1862.

Your petitioner was advised by counsel that the act of Congress of , 1864, under which she was required to make the return, does not cover or include the proceeds of crops made previous to the year 1864, and that this point had been expressly decided by the courts of the United States; among others by the circuit court of the United States at Baltimore, in the case of Odler Bove. But said Treasury agent threatening, notwithstanding his attention was called to the legal construction of the law, that he would himself cause a return, with the penalties prescribed, to be made, unless your petitioner would furnish a return herself, your petitioner's agent applied to him to know whether it would be necessary to make out all the items specifically or only to make a lumping statement. Upon his assurance that the latter would be sufficient, your petitioner's agent, by taking one-half of the net sales at New Orleans and Liverpool, as they appeared on the accounts before him, added 25 per cent for the difference between gold and currency to the sales in Liverpool, and by deducting one-half of such allowance as he thought your petitioner would be entitled to, ascertained that the full amount with which your petitioner could be chargeable in any event for the crop

of 1862 was $103,195, and made return accordingly, accompanied, however, with a protest in your petitioner's name against any assessment of income tax upon said crop. The Treasury agent accepted the return, and promised, as your petitioner's agent understood him, to lay the return and protest before the Commissioner at Washington.

Your petitioner was, therefore, taken by surprise when served, on or about the 15th of May inst., with a notice in writing by H. L. Norvell, collector of the 5th dist., Tennessee, that a tax had been assessed upon her amounting to ninety-nine thousand seven hundred and twenty-six dollars ($99,726) on her income for the year 1864, and that payment thereof was demanded. Your petitioner does not know how this result has been arrived at, but she knows that the amount is excessive, and she solemnly protests against the same, not only for the reasons suggested in her protest above referred to, but because the same is erroneous and unjust. Your petitioner has, as rapidly as possible, obtained the necessary papers from New Orleans and elsewhere, and is now able to make a correct statement of the exact amount realized from the sales of said crops, and an approximation of the deductings to which, as she is advised, she is entitled to under the internal-revenue laws.

Your petitioner would now state that the crops of cotton of 1861 and 1862 were with great difficulty and at great expense preserved from destruction until the spring of 1864, when they were sent together, the crop of 1861 ginned and baled and the crop of 1862 unginned and in sacks, to New Orleans, where the latter crop was ginned and baled. The entire crop amounted to twenty-eight hundred and eighty-seven bales (2,887), of which, as she is informed and believes, over two thousand were of the crop of 1861, and the residue of the crop of 1862. Of these, seventeen hundred and eighty-five bales (1,785) were sold at New Orleans, and eleven hundred and two bales were sent by way of New York to Liverpool, the cost of shipment being paid out of the proceeds of sales at New Orleans. After paying the necessary expenses of getting the crops to market, and the expenses of the sale at New Orleans, and the Government dues, including—

Internal-revenue tax	$19,197.40
Excise tax	24,598.70
Hospital fees	14,116.80
	87.912.90

the net balance of the sales at New Orleans, as shown by the account sales and accounts current of the commission merchants (all of which can be produced if required) amounting to the sum of three hundred and twenty thousand seven hundred and thirteen $\frac{10}{100}$ dollars. In the same way, the net sales of the cotton made at Liverpool between July and Dec'r, 1864, as shown by the accounts currents of Schroder & Co. (which can be produced if required), were fifty-one thousand four hundred and thirty-nine pounds two shillings and six pence (£51,429 2 6), which, when reduced to Federal denominations, at four $\frac{84}{100}$ dolls. to the pound sterling, amounts to two hundred and forty-eight thousand nine hundred and sixty-five dollars and thirty-six cents ($248,965.36). The proceeds of these sales were placed to her credit at the Rothschild in Sept. and Dec'r, 1864, and Jan'y, 1865. The net sales at New Orleans and Liverpool are $569,679.07.

Your petitioner is advised that, upon the supposition that these net proceeds are liable to an income tax, she is entitled to have deducted therefrom the necessary expenses of raising the crops, the average repairs on the plantations for the years 1861 and 1862, the annual taxes for those years actually paid, the interest upon the mortgage debt on the plantations and crops, and the actual expenses of preserving the cotton from destruction.

She is also advised that if the proceeds of either of these crops are to be charged as income for 1864 she is entitled to a further deduction for the interest of the mortgage debt to the day of payment, and for the subsistence of the slaves and stock to 1864, inclusive. All these credits she has set forth in the schedule of exhibit herewith filed, marked "No. 1," and made a part of this petition. The items are estimated from the best information she has been able to procure, and are, she believes, a near approximation to the truth, and under rather than over the reality. They amount, it will be noticed, to three hundred and seventy-nine thousand eight hundred dollars. If now we deduct this amount from the next proceeds of sale as above, we have a balance of one hundred and eighty-nine thousand eight hundred and seventy-nine $\frac{97}{100}$ dollars. Of this balance, for the reasons already given, two-thirds may be considered as the net proceeds of the crop of 1861 and one-third as the net proceeds of the crop of 1862; thus:

Two-thirds for 1861	$126,586.05
One-third for 1862	63,293.02

Your petitioner believes the foregoing is a near approximation to the truth, and if she is chargeable with anything it is only with the income tax on her undivided interest in the net proceeds of the crop of 1862, and then only under the provisions of the act of Congress of 1862, not the act of 1864, which can not relate back to crops raised before that year. The crop of 1871, it is obvious, is not subject to income tax at all, and the net proceeds of its sales were used in the payment of the debt which was a mortgage thereon. Your petitioner submits that she ought not to be charged at all, except through the local assessors of the State of Louisiana, and then only in case all other citizens in like situation with her husband and herself in that State are so charged with income tax on the crops of those years. She respectfully asks that the assessment made by the local assessor of the 5th collection dist. of Tenn. be reviewed, set aside, and annulled; that her protest against any assessment be considered and acted on, and that justice be done in the premises. It is proper to add that one of the deductions made by her is the amount of $50,000 claimed by Alex. Walker for services in getting the crops to market, and for the recovery of which he has brought suit in the courts of Louisiana, and recovered judgment for $25,000, which judgment was, upon the appeal to the Supreme Court, reversed and remanded for another trial, If this claim should be disallowed in whole or in part, and your petitioner is held bound to pay income tax on the crops in question, she will hereafter, in future returns of income, hold herself bound to return so much of the $50,000 as may be avoided in said suit, less the actual expenses incurred in defending the same. This is the only deduction made from the gross sales at New Orleans, as per account sales and account currents, which is not for money actually paid by her said commission merchants in New Orleans for the necessary expenses of getting the crop to market and selling the same. The deductions in Schedule A, No. 1, are in addition, and such as she is advised she is entitled to under the internal-revenue laws. Your petitioner has exhausted the proceeds of the crop of 1861 in the payment of the mortgage debts, as before stated, and if now called upon to pay an income tax on the proceeds of that crop would be compelled to sell property to meet the demand. Your petitioner again submits the matter to your decision, being willing, as she always has been, to pay an' dues with which she is legally and properly chargeable.

Exhibit Schedule No. 1 to foregoing petition.

1864.				
April	26.	To net sales 1,118 bales cotton at N. O.		$299,758.56
June	8.	" " " 642 " " " " "		190,565.58
"	27.	" " " 25 " " " " "		12.359.16
"	8.	" sacks returned $5,583.25; overcharge on insurance, $1,442.50		7,025.75
July to Dec'r.		" net sales 1,102 b. c. at Liverpool, £51,439 2 6, at 4.84		248,965.36
				758.674.41
1864.				
April and May.		By bagging, rope, sacks, and freights thereon.	$7,769.05	
" to June.		" wagons, teams, and freights thereon	8,843.46	
" " "		" river freights on cotton	2,615.00	
" " "		" permits to shipp bagging, etc	550.00	
" " "		" by am't paid Dufield for bringing out cotton	10,597.94	
" " "		" am't paid Alex. Walker " " "	500.00	
June	6.	" " " W. H. Hunt, prof. services	5,000.00	
" 21 to 30.		charges on 500 b. c. shipped to Liverpool	32,150.00	
		" " 602 " " "	43,969.23	
		By subsistence, clothing, medical attendance, and supplies for 1,500 negroes; subsistence for 700 mules, horses and cattle, and other expenses, 1860 and 1862	200,000.00	
		By " " " " 1863 and 1864	100,000.00	
		" 6 overseers for 1861 and 1862	12,000.00	
		" average repairs " " "	7,000.00	
		" taxes " " "	4,800.00	
		" interest on mortgage-debt for 1860 and 1822, on farm and crops, at 8 per cent	32,000.00	
		" do. do. do. do. 1863 and 1864	24,000.00	
		" actual expenses in saving cotton, '62 to '64.	25,000.00	
		" am't claimed by Alex. Walker and in suit	50,000.00	
				$541,795.34
				$216,879.07

Net am't sales in New Orleans	$507,709.05	
Less actual expenses	111,995.34	
		$397,713.71
Net sales in England		248,965.36
		$646,679.07
Br't forward		$646,679.07
Expenses of producing, saving, and taking to market		429,800.00
		216,870.00
Of this ⅔ is a fair estimate for crop 1861	144,586.05	
Add ⅓ " " " " 1862	72,292.02	
		216,899.07

Exhibit D to deposition of Adelecia Cheatham.

William A. Cheatham and Adelecia, his wife, lately Adelecia Acklen, protest against the assessment of the income tax made out against the said Adelecia by the local assessor of the 5th collection district of Tennessee, at Nashville, for the year 1864, and under the act of Congress of the 30th day of June, 1864, chapter 173, sections 116 to 123, and returned to the collector of said district for collection thereof, and assign the following among other reasons for protest:

1st. More than one-half of the said assessment is based upon the proceeds of the sales of cotton, the crop of the year 1861, before there was any law of Congress laying a tax upon income.

2d. The residue of said assessment is based upon the proceeds of the sales of cotton, the crop of 1862, which crop was not liable to assessment at all under the act of 1864, as aforesaid.

3d. The tax was assessed at ten per cent on the income as ascertained by the assessor, when the only law under which such assessment could be made, if legal at all, was the act of Congress of the 1st day of July, 1862, sec. 89, which fixes the rate at 3 per cent on incomes under $10,000 and 5 per cent on incomes over $10,000.

4th. The act of 30 June, 1864, has been repealed by the act of Congress of the 3d day of March, 1865, and was not in force when said assessment was made.

5th. The act of 30th day of June, 1864, if it was in force, does not cover or include the proceeds of crops made previous to the year 1864.

6th. The assessor refused to make any deduction for the subsistence of the slaves and stock for the year 1864.

7th. The assessor refused to make any allowance for the necessary expenses of raising the crops of 1861 and 1862, and which expenses amounted, up to July, 1862, to the sum of $271,373.91, to secure which, at the time the debt was incurred, a privilege or mortgage was given by the said Adelecia and her husband, Jos. A. S. Acklen, upon the crops of 1861 and 1862 and upon the plantations on which the crops were raised.

8th. The assessor refused to allow all the costs and expenses necessarily incurred in preserving the said crops and getting the same to market.

9th. The assessor made no allowance for the average repairs upon said plantations for the years 1861 and 1862.

10th. The cotton upon which said assessment was made was raised in the parish of West Feliciana, State of Louisiana, in which parish the said Jos. A. S. Acklen and the said Adelecia, his wife, now Adelecia Cheatham, were resident citizens in the years 1861, 1862, 1863, and 1864, and up to the day of , 186 , after the death of the said Jos. A. S. Acklen, which occurred on the day of 186 , and the cotton never was brought to Tennessee, and ought to be assessed, if assessed at all, by the local assessors of the parish of West Feliciana, State of Louisiana.

11th. The assessment should also be made, not against the said Adelecia, but against the personal representatives of the estate of Jos. A. S. Acklen.

12th. The assessment of the income tax for the years 1862, 1863, and 1864 had been suspended by law in the State of Louisiana, and there is no reason why the suspension should not operate upon the crops in question; nor why the said Adelecia should be made an exception to the general law.

13th. The assessment in question is, therefore, for the reasons assigned under the three last heads, made by persons not authorized to make the same, against the wrong person, and is illegal and void.

14th. The interest of the said Adelecia in the plantations on which said cotton was raised was only an undivided interest of , and her share of the net proceeds or income derived from the sale thereof was only in the same proportion, and her hus-

band, the said Jos. A. S. Acklen, was, by the laws of Louisiana, entitled to one-half thereof as his share in the community acquits and gains.

15th. The assessor refused to allow the interest on the privilege or mortgage debt, except for the year 1864.

16th. Other good causes.

The payment of said income tax upon the assessment as aforesaid is made under this protest, and notice is hereby given that the said Cheatham and wife will bring their action to recover the amount so paid, or so much thereof as may have been illegally and wrongfully assessed and collected.

W. A. CHEATHAM,
For Self and Wife.

Second. The plaintiffs next read the letter of Thomas Harland, deputy commissioner of United States internal revenue at Washington, to John McClelland, assessor of internal revenue of the United States for the 5th collection district of the State of Tennessee, at Nashville. Said letter of date October 7, 1867, being dated from the office of the Treasury Department of internal revenue, at Washington, with instructions therein to said John McClelland, assessor, which is marked "No. 2" and made a part of this bill of exception.

Letter of Thomas Harland, marked "No. 2."

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, October 7, 1867.

SIR: I have before me your letter of 9th ult., relative to the assessment made upon the income of Mrs. Adelecia Acklen, of Nashville, for the year 1864; also letter of 13th of May last of D. S. Goodloe, esq., rev. agent, enclosing abstract of the assessment, and a petition from Mrs. Acklen, addressed to this office; also a letter dated Aug't 24th last, from Collector Norvell, introducing to the office Mr. Thomas T. Smiley, of your city; also a copy of the account-current of 1864, between W. A. Johnson & Co., of New Orleans, commission merchants, and Mrs. Acklen; also the account-current between Mrs. Acklen and J. H. Schroder & Co., of Liverpool, for the same year, and various other papers.

It appears that, being unable for some reason to obtain a statement from Mrs. Acklen of her income of 1864, an independent assessment was made by you, based upon the sales of 3,000 bales of cotton in 1864, for $800,000 net and tax assessed, which, with penalty, amounted to $99,650. The reasons which prevented due returns by Mrs. Acklen for the year 1864 are stated by Mrs. A. in her petition, many of which, if not all, are deserving of consideration, but whether valid or not, there is no doubt but that, under the circumstances, you were justified in making an independent assessment, while at the same time, in view of the statements of the petition, and the accounts of Mrs. Acklen with her agents in New Orleans and Liverpool, it is clear that the assessment made is so far in excess of the proper assessment that great injustice should be done were it allowed to stand.

On examination of the accounts-current referred to you, you will see that in all 2,887 bales of cotton, the product of various plantations in the State of Louisiana in the years 1861 and 1862, were sold in 1864; of which 1,785 bales were sold in New Orleans for $501,235.00, and 1,102 bales in Liverpool for £51,439.29; reduced to Federal denominations, at $4.84 per pound sterling, $248,965. Mrs. Acklen appears to have gotten the impression that at least so much of the proceeds of the aforesaid crops as was raised from the product of the year 1861 is not returnable as income; but the law now in force and also at the time of assessment of income in 1864, places the tax on all sales of farm and plantation products made in that year, making no distinction as to the time when the same were raised. Such expense of carrying on the farm or plantations as is due to the year of income (in this case in 1864) is also deductible from the sales, but expenses due to the former years can not be taken into consideration.

In the abstract of the independent assessment which you forward you have allowed "$400,000 expenses of taxing and raising;" but there is no authority for such allowance, at all events in making a regular assessment.

In view of the above-mentioned requirements of the law, and the unprecedented expense incurred in raising the crops sold in 1864, it is believed to be no more than just that Mrs. Acklen should enjoy the extreme benefit of all such other deductions as can be legally and reasonably made. The office will, therefore, consider the facts of the case in detail. The first consideration to which the petitioner calls attention is "that before and during the years 1861 and 1862, and afterwards, up to the 11th day of September, 1863, her late husband, Joseph A. S. Acklen, and your petitioner as his wife, were resident citizens of the State of Louisiana, in the parish of West Feliciana.

"At this latter date the said Joseph A. S. Acklen departed this life, and your petitioner subsequently made her home in Tennessee. Your petitioner was and still is the owner of an undivided interest in several valuable plantations in said State of Louisiana, the other undivided interest belonging to her four children by said Acklen, for whom she is tutrix under appointment in that State. The plantations were carried on, however, under the management and control of her late husband, and he was entitled to an undivided half of the income, acquits, and gains."

From the above statement, and the terms of the Louisiana code, it appears that an undivided half of the cotton product, the sale of which in 1864 forms the basis of said assessment, passed in September, 1863, as personal property, from Joseph A. S. Acklen to his children, constituting legacy only, and not taxable as income.

If any profit were realized by the sale of said cotton over and above the value, when the same passed to the children of Mr. and Mrs. Acklen, which is doubtful, that profit would be returnable as income of the beneficiaries. As tutrix of her children, it appears Mrs. Acklen undertook the transportation and sale of all the cotton referred to, including her own. Under these circumstances, it is of course unnecessary to follow the disposition of that portion of the cotton belonging of right to the children, but, for convenience' sake, the entire sales and expenses will be first considered.

I now quote from the petition a statement which leads at once to certain profits realized by the sales at New Orleans, and which appears to be borne out by the Johnson account-current "after paying the necessary expenses of getting the crops to market and the expenses of the sales at New Orleans and the Government dues, including—

Internal-revenue tax	$49,197.40
Excise tax	24,598.70
Hospital	14,116.80

the net balance of the sales at New Orleans, as shown by the account-sales and accounts-current of the commission merchants, amounted to $320,713.71."

It is previously stated that the costs of shipment to Liverpool were paid out of the proceeds of sales at New Orleans, and by reference to the Johnson account it will appear that the bill of charges for shipment, insurance, &c., of 500 bales to Liverpool was $32,150, and of 602 bales $40,655, which sums, added to the taxes above mentioned, make an aggregate of $106,716. This sum, deducted from the $501,235, leaves $341,519. Now if the $320,713 above be deducted from the $541,519, there is left $20,806 to cover Mr. Johnson's charges on sales and expenses of transportation to New Orleans. Mr. Smiley alleges that the person who drew the petition has in some way here made a gross mistake, as he is firm in the conviction that Mr. Johnson's charges on sales above exceeded $30,000, and refers to the Johnson account to show that not only the legitimate expenses of transportation to New Orleans were excessively large, but the expenses of counsel, paid in connection with an arrest of the cotton "in transitu," were also very considerable. All these expenses incident to the transportation to New Orleans are allowable deductions, and you are requested to confer with Mr. Smiley, with a view to arrive at an amount which, while protecting the interests of the Government, will fully cover such expenses, so that no reasonable ground of complaint on this score can exist. In addition to the charges covering fees of counsel, as shown in the Johnson account, and already paid, is an amount of a judgment recovered against the petitioner for $25,000, by Alexander Walker, for services in getting said crops to market, but which judgment was reversed on appeal, and the case remanded.

Under the circumstances, Mrs. Acklen wishes to be allowed to deduct the $25,000, holding herself bound to return as future income so much thereof as may be avoided in the suit; but the office thinks she is not entitled to this deduction, but will not be entitled to deduct any actual portion thereof hereafter paid from future returns of income, or make claim for tax paid on amount thereof.

So much interest money as was paid by Mrs. Acklen on mortgage debt, and as was due to the year 1864, is also deductible. The debt and interest at 8 per cent., when paid about Dec., 1864, as appears, was $278,594; the interest due to the year 1864 appears to be about $16,880. The amount paid for average repairs of the various plantations and the expense of carrying on the same in 1864 are also among the deductions which the law allows.

Mrs. Acklen is also entitled to deductions of State and county taxes paid in 1864, as well as the national taxes above stated.

Finally, the expense of ginning and baling the cotton, not being an expense incurred in the production thereof, but rather in preparing the same for market, and part of which, in fact, was accomplished at the city of New Orleans, after transportation, is a subject of deduction. As the major part of this expense was incurred before Johnson & Co. had any connection with the business of Mr. Acklen, and was evidently paid out of the advancements made to Mrs. Acklen by Wilson & Co., the amount will not be found in the Johnson account, and in estimating the aggregate you will be obliged to rely upon other sources of information.

Mr. Smiley has several letters from persons (some of whom are known to the office) who have had experience in such matters, which we will lay before you, by the aid of which, together with the accounts kept by Mr. Acklen, if any, and your own experience and knowledge, you can arrive at the probable expenses.

The $248,965 sales at Liverpool, as you will see from the Schroeder account, represent the net profit after deduction of the charges incurred in England. This was in gold, but unless the same was sold there is no premium to be returned. If sold, the premium is returnable as income of the year of sale; adding the sales of Liverpool ($248,965) and the sales of New Orleans ($501,236), the aggregate is found to be $750,200.

You will estimate the aggregate or deductions allowed, and substract the same from the $750,200; one-half of the remainder will represent the taxable income of Mrs. Acklen, as derived from the sales which form the basis of assessment.

From a rough and, in the nature of the case, imperfect estimate made by the office, it is thought the tax due will be found to amount to from $22,000 to $25,000.

You will please report the conclusion to which you arrive to this office.

The office takes the occasion to acknowledge its appreciation of your fidelity, and confidently hopes, with the aid of Mr. Smiley (whose disposition to represent the interests of his clients fairly, and unaccompanied with any reflection whatever upon you or your associates, is thoroughly appreciated), you will soon a satisfactory conclusion.

Respectfully,

THOMAS HARLAND,
Deputy Commissioner.

To JOHN MCCLELLAND,
Assessor, Nashville, Tennessee.

The following facts were agreed to and admitted to be true by the counsel for both parties:

That on the 10th day of May, 1867, John McClelland, of the fifth collection district of the State of Tennessee, made an assignment against the plaintiff, Adelecia Cheatham, of $ income tax for the year 1864, growing out of the sale of 2,887 bales of cotton sold by the said Adelecia Cheatham, on the 17th day of June, 1867, by petition appealed to the Commissioner of Internal Revenue of the United States against said assessment. On the 7 Oct., 1867, the Commissioner, through his deputy, instructed the assessor, John McClelland, to make a new assessment. That on the 15th day of March, 1868, a new or final assessment was made against the said plaintiff, Adelecia Cheatham, for income for the year 1864, as follows:

Net income for the year 1864	$301,919.18
Amount in excess of $600 and not exceeding $5,000, subject to 5 per cent., $4,400.00	220.00
" " " " $5,000, subject to 10 per cent., $297,519.18	29,751.91
Total tax and amount due	29,971.91

That on the day of , 1868, the plaintiff, Adelecia Cheatham, paid said $29,971.91, under protest in writing, and that on the 18th day of January, 1869, the plaintiff instituted this suit to recover said amount paid under protest.

The plaintiffs' counsel next read to the court and jury the receipts of the defendant, Norvell, showing the dates and amounts of the several payments of the said assessment, marked No. 3, and made a part of this bill of exceptions.

Statement of the payment of Mrs. Acklen's income tax by her husband, Dr. W. A. Cheatham.

April 80, 1868, by cash		$3,799.00
July 25, " " "		20,000.00
Oct. 29, " " "		8,275.00
		32,074.00
Am't of tax	$30,049.00	
Penalty on $26,250	1,312.50	
Interest on $26,250 to 1 July	525.00	
" " $6,250 to 1 Oct	187.50	
		32,074,00

H. L. NORVELL, *Col'r.*

The plantiffs, by their counsel, submitted the five following propositions in writing to the court and requested the court to charge them to the jury as the law; which paper is marked No. 4, and made a part of this bill of exceptions.

Paper marked No. 4.

First. That in order to have the benefit of any statutes of limitations, the defendant must plead the same, and there being no plea of the statute in this case the defendant can set up no such defense.

Second. That the 19th section of the act of July 13, 1866, ch. 184, only imposes upon a taxpayer, as a condition preliminary to bringing a suit for the recovery of taxes illegally assessed, and paid by him under protest, an appeal to the proper officer, and a decision thereon; that this appeal may be taken from the assessment, and, if so taken, and the new or reassessment is made in a strict conformity with the rulings on the appeal, then no second appeal is necessary to entitle the taxpayer, upon payment of the illegal assessment under protest, to sue for and recover the same.

Third. That in such cases the 19 section of the act of July 13, 1866, ch. 184, does not affix any limit of time within which the suit shall be brought as a condition to the right of action or as a statute of limitations.

Fourth. That, if it did prescribe a limitation of time within which to sue, it would be a statute of limitations, and as such must be relied on by plea by the defendant if he wished to have the benefit of it.

Fifth. That the plaintiff in this case had no right of action against the defendant until the assessment was actually paid, and, the action having been brought within six months from the payment under protest, the action is not barred by anything contained in the 19th section of the act of July 13, 1866.

The court allowed the first, third, and fourth propositions and disallowed the second and fifth; to which the plaintiffs, by their attorneys, excepted at the time.

Charge of the court to the jury.

The court charged the jury as follows:

First. That by the laws of the State of Louisiana the crops of cotton of 1861 and 1862 were the property of Joseph A. S. Acklen, the late husband of the plaintiff, Adelecia, at the time of his death in 1863, and when she sold said crops of cotton, in 1864, as administratrix of her said late husband, after paying the community debts of her husband and self, and his individual debts, if he owed any such, one-half of the net balance of the proceeds of said cotton passed to the said plaintiff, Adelecia, by the laws of the State of Louisiana, and was not liable to any tax or duty in her hands *under the act of Congress.*

Second. That the crops of cotton raised in the years of 1861 *and* 1662, respectively, were the *annual products of those years, and could not be taxed as income for the year* 1864 *under the act of Congress of June* 30, 1864.

Third. That it is the opinion of the court, and it so charges, that the assessment of said income against the plaintiff, Adelecia Cheatham, was *erroneous and illegal,* and made *without the authority of law.* Although the court is of the opinion that the assessment was illegal, yet it thinks, and so charges, that this case depends solely upon the construction of the nineteenth section of the act of 13th July, 1866.

The court is of the opinion that the said nineteenth section is not a statute of limitations, as has been suggested, but it is a right given by Congress to all persons who feel that they have been illegally or erroneously assessed to sue to recover back money paid and exacted illegally, but only when they have complied with the provisions of said section of said act. It is a condition without doing which the parties have no action. When a person shall deem himself illegally or erroneously assessed, before he can maintain a suit in any court, he must appeal to the Commissioner of Internal Revenue, according to the provisions of law in that regard, and a decision of said Commissioner shall be had *months* thereon, and suit must be brought within six from the time of said decision or within six months from the time this act takes effect. However, if said decision is delayed more than six months from the date of such appeal, the said suit may be brought at any time within twelve months from the date of such appeal.

Now, if the jury shall believe, from the evidence, that the decision made by the Commissioner of Internal Revenue was made within six months from the 17th day of June, 1867, when this appeal was taken, then, under the nineteenth section of the act of 13th July, 1866, the plaintiffs must have brought their suit within six months from the date of that decision, and, unless they did so, they cannot maintain this suit, and the jury must find for the defendant.

To which rulings of the court the plaintiffs, by their attorneys, then and there excepted, and tendered to the court this their bill of exceptions; which was signed and sealed by the court and ordered to be made a part of the record of said cause.

[SEAL.] CONNALLY F. TRIGG,
District Judge, Presiding.

UNITED STATES OF AMERICA,
Middle District of Tennessee, ss:

I, Edward R. Campbell, clerk of the circuit court of the United States for the middle district of Tennessee, do hereby certify that the foregoing is a true and perfect transcript of the record and proceedings had in said court in the cause of William A. Cheatham and his wife, Adelecia Cheatham, plaintiffs, against Henry L. Norvell, collector, defendant, as the same appears of record and on file in my office.

In testimony whereof I have hereto set my hand and affixed the seal of our said court at Nashville, this the sixth day of March, A. D. 1874, and the 98th year of the Independence of the United States.

E. R. CAMPBELL, *Clerk,*
By J. W. CAMPBELL, *D. C.*

(Indorsement on cover:) No. 160. William A. Cheatham and Adilicia Cheatham, his wife, plaintiffs in error, *vs.* Henry L. Norvell, collector internal revenue. M. Tennessee C. C. U. S. Filed 16th March, 1874.

APPENDIX C.

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, January 30, 1879.

SIR: In reply to yours of the 23d instant, in which you ask certain information relative to taxes levied and collected in the year 1864 on cotton raised in the years 1861 and 1862, and owned and sold by Mrs. Adelicia Cheatham, I have to say that section 94 of the act of June 30, 1864, imposed a tax of 2 cents a pound on all cotton upon which no duty had been levied, collected, or paid, and which was not exempted by law; and section 99 of the same act imposed a tax of one-eighth of 1 per cent upon the sales of merchandise, produce, etc., made by brokers.

The hospital fee referred to was not levied and collected by authority from this office. I believe that it was collected by military authority.

The records of this office do not show that any tax on cotton was assessed against or collected of Mrs. Acklin (or Cheatham) where her residence is understood to have been, the fifth district of Tennessee. Her sales of cotton are understood to have been made through brokers; and, if so, the tax thereon was probably assessed against the brokers who made the sales. If it was so assessed, it is impossible for me, from the records of this office or any information now in my possession, to say what amount of tax was assessed or collected on cotton owned by her.

In March, 1868, an assessment, amounting to $29,971.91, was made against Mrs. Acklin on her income for the year 1864. This amount, together with penalty and interest, amounting to $2,101.59, was paid in April, July, and October, 1868. It is understood that the income upon which this assessment was made was derived chiefly from the sale of cotton. The assessment was made under the provisions of sections 116 and 117 of the act of June 30, 1864, as amended by the act of March 3, 1865. (Section 13, Statutes, pages 479 and 480.)

Respectfully,

GREEN B. RAUM.
Commissioner.

Hon. J. H. ACKLEN, M. C.,
House of Representatives, Washington, D. C.

O

2D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 264.

METHODIST EPISCOPAL CHURCH OF HUNTSVILLE, ALA.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5394.]

The Committee on War Claims, to whom was referred the bill (H. R. 5394) to refer the claim against the United States of the Methodist Episcopal Church of Huntsville, Ala., have had the same under consideration, and after a careful investigation find that in the month of December, 1863, the city of Huntsville, Madison County, Ala., was in the possession of the United States military forces; that during the very severe weather which prevailed in that month a detachment of United States troops, quite a number of whom were sick, by order of the post quartermaster took possession of and made their quarters in the basement room of the edifice belonging to and used by the congregation of the First Methodist Episcopal Church of Huntsville, Ala.; that the pastor of the church, Rev. James R. Plummer, accompanied by Rev. Zachariah Parker, called upon the officer in command of the said detachment of United States troops, and inquired by what authority the said church edifice had been taken possession of; and the said pastor, in explicit and unmistakable terms, called the attention of said commanding officer to the fact that the large fires necessitated by the excessively cold weather were greatly endangering the said church edifice; that the said commanding officer replied that the detachment of soldiers had taken possession of the building by virtue of the orders of the quartermaster of the post; that a few days subsequent to the interview between the pastor of the church and the officer in command of the detachment, to wit, on or about the 6th of January, 1864, the church building did accidentally take fire, and was utterly consumed, together with everything it contained.

The committee find that all the facts connected with the occupancy of said church edifice by a detachment of United States troops are set forth, with circumstantial and minute detail, in the memorial of the trustees of said church presented to the House during the second session of the Forty-second Congress, which memorial the committee beg to incorporate with and make part of this report:

To the Senate and House of Representatives of the United States in Congress assembled:

The undersigned trustees of the Methodist Episcopal Church South, in the city of Huntsville and State of Alabama, respectfully represent unto your honorable bodies that during the very severe weather of December, 1863, a detachment of United States soldiers, quite a number of whom were sick, were quartered in the basement room of said Methodist church, in said Huntsville, and that on the 6th day of January, 1864, said building was accidentally set on fire by the fires used by them in the said basement story, and was entirely consumed.

To substantiate the above statement memorialists refer to E. B. Clapp, who was then mayor of said Huntsville; to William I. Halsey, who was then city marshal of said Huntsville; and to John B. Trotmaid, John W. Cooper, James L. Cooper, and William B. Figures. That said soldiers represented at said time that they were occupying said building by order of the quartermaster of the post. To substantiate this statement memorialists refer to the Rev. I. R. Plummer, of , and to the Rev. Z. Parker, of Decatur, Ala.

Your memoralists respectfully represent that after the destruction of their church edifice they have no house of their own in which to worship. They are now striving to build a church upon the old site, but for want of means they find it exceedingly difficult to complete the work. They respectfully show by accounts and certificates prepared by experts, and by the official certificate of Hon. R. M. Patton, then governor of the State of Alabama, that said building was worth in the aggregate $13,353.58 and was destroyed as aforesaid. Said certificate is hereto annexed and marked Exhibit A B, and memoralists pray that it may be taken as part of their memorial.

The premises considered, your memorialists humbly pray that your honorable bodies will make an appropriation for the payment to them of the said amount, or for such an amount as you may deem the said Methodist church entitled to under all the circumstances of the case.

And as ever in duty bound, etc.,

JOHN B. TROTMAN, *Chairman.*
C. A. GILL, *Secretary.*
JAMES A. BEASLEY.
W. H. MOORE.
JOHN D. BRANDON.
B. F. STINE.
JOHN J. DEMENT.
JOHN L. RESIN.
THOS. J. HUMPHREY.

The committee find further, that on the 28th day of August, 1867, the mayor, the marshal, and the clerk of the corporation of Huntsville, together with several other reputable citizens of Huntsville, certified, under oath, to the fact that said church building was occupied by a detachment of soldiers of the United States in December, 1863, and that while so occupied by them said building was accidentally set on fire and entirely consumed, which said certificate the committee desire to incorporate in and make part of this report.

We, the undersigned citizens of Huntsville, Ala., do hereby certify that during the very severe weather of December, 1863, a detachment of soldiers of the U. S. Army was quartered in the basement room of the First Methodist Church South in Huntsville, and that while so occupied by them on the 6th day of January, 1864, said building was accidentally set on fire from the fires used by them in said basement story and entirely consumed.

E. B. CLAPP,
Mayor of Huntsville.
WM. J. HALSEY,
City Marshal.
R. B. NORVELL,
Clerk of the City of Huntsville.
JOHN B. TROTMAN.
JOHN W. COOPER.
JAS. L. COOPER.
W. B. FIGURES.

Sworn and subscribed before me, this 28th day of August, A. D. 1867.
[SEAL.] JAMES H. SCRAGGS,
Probate Judge.

STATE OF ALABAMA, *Madison County:*

I, James H. Scraggs, judge of the probate court in and for said county, do hereby certify that E. B. Clapp is the mayor, William J. Halsey is the marshal, and R. B. Norvell is the clerk of the corporation of Huntsville, and John B. Trotman, John W. Cooper, James L. Cooper, and William B. Figures are citizens of said city of Huntsville, and that their statement in the above and foregoing is entitled to full faith and credit.

Given under my hand and official seal, at the city of Huntsville, in said county, this 28th day of August, A. D. 1867.

[SEAL.] JAMES H. SCRAGGS,
Probate Judge.

The committee find further that the Rev. J. R. Plummer, pastor of said First Methodist Episcopal Church of Huntsville, made a sworn statement of facts relative to the occupation of said church building, and its subsequent accidental burning, as of his own personal knowledge, and that the Rev. Z. Parker, a citizen, made a similar statement of the facts as within his personal knowledge, which said two sworn statements the committee desire to incorporate in and make a part of this report:

I was pastor of the First Methodist Episcopal Church South, in Huntsville, Ala., 1863 and 1864, then in occupancy of the U. S. Army.

Sometime in the month of December, 1863, a detachment of United States soldiers was quartered in the basement story of the church edifice in Huntsville, belonging to said church; among them were quite a number of sick soldiers. After they had been established in said basement the undersigned, in company with Rev. Z. Parker, a citizen of Huntsville, visited said soldiers in occupancy of said basement and inquired of the officer in charge of said detachment by what authority they occupied the basement of the church, remarking at the same time that they were greatly endangering the church edifice by the large fires the excessive cold weather required to be kept up.

I was informed by him that they were there by the authority of the quartermaster of the post, having been assigned said quarters by him.

A few days after the interview above stated, about 9 o'clock on the morning of January 6, while the building was yet in occupancy of said United States soldiers, the building was discovered to be on fire, and was utterly consumed, together with all of its contents.

I believe the fire was caused by the heat from the stoves in said basement; that the burning of the church was accidental or unintentional.

J. R. PLUMMER.

Sworn to and subscribed before me this 29th day of August, 1867.

JAMES H. SCRAGGS,
Probate Judge.

STATE OF ALABAMA, *Madison County:*

I, James H. Scruggs, judge of probate in and for said county, do hereby certify that of my own personal knowledge Rev. James R. Plummer was the pastor of the First Methodist Church South in the city of Huntsville, in Madison County, in the State of Alabama, in the year 1863, and his statement is entitled to full faith and credit.

Given under my hand and official seal at the city of Huntsville, in said county, this the 28th day of August, A. D. 1867.

[SEAL.] JAMES H. SCRUGGS,
Probate Judge.

The undersigned, Zachariah Parker, hereby certifies that he is now a citizen of Huntsville, Ala., and was so during the years 1863 and 1864. About the latter part of the year 1863 there were quartered in the basement story of the Methodist Episcopal Church South building, in said city, a number of United States soldiers. After they had been there a few days the undersigned went with Rev. J. R. Plummer, then pastor of said church, and inquired of the officer in charge by what authority they held their quarters in said basement. The officer replied that the soldiers were assigned to said basement or quarters by order of the post quartermaster, and that eleven of them were sick soldiers.

The weather at that time was exceedingly cold, requiring very large fires to warm up so large a room. A few days afterwards the building was discovered to be on fire at a point in the said basement story, and in spite of all efforts it was entirely consumed, with everything in it, on the morning of January 6, 1864. Beyond doubt the fire was caused by the large fires in the basement below, and the burning of the house was not the result of design. At the time the fire started all the rest of the building, except that occupied by the soldiers, was locked up.

Z. PARKER.

STATE OF ALABAMA, *Madison County:*

I, James H. Scruggs, judge of the probate court, which said court is a court of record, do hereby certify that I am personally acquainted with Zachariah Parker, whose statement in the above and foregoing is entitled to full faith and credit.

Given under my hand and official seal at the city of Huntsville, in said county, this 28th day of August, 1867.

[SEAL.] JAMES H. SCRUGGS.
Probate Judge.

The committee also find that the official position of James H. Scruggs as probate judge in and for Madison County, State of Alabama, and as to the genuineness of his signature attached to the papers hereinbefore recited, is officially certified to by Hon. R. M. Patton, governor of Alabama, under the great seal of the State, in which said certificate the governor further certifies to the correctness of the statements relative to the burning of said church building made by the corporate authorities and other citizens of Huntsville, as well as to his personal knowledge of the value of the church edifice that was destroyed, which said official certificate of the governor of Alabama the committee also desire to incorporate in and make part of this report.

EXECUTIVE DEPARTMENT, *State of Alabama:*

I, R. M. Patton, governor of the State of Alabama, do hereby certify that James H. Scruggs, whose genuine signature appears to the foregoing documents, is now, and was at the date of signing the same, judge of probate for Madison County, State of Alabama, and that all his official acts as such judge of probate are entitled to full faith and credit. I further certify to the correctness of the statement made in one of the papers, signed by E. B. Clapp and others, relative to the burning of the Methodist Episcopal Church, South. From my personal knowledge of the church edifice that was destroyed, I am satisfied that the building was worth fully as much as is stated in the foregoing papers.

Given under my hand and the great seal of the State at the city of Montgomery, this 2d day of September, 1867, and of the Independence of the United States of America the ninety-second.

[SEAL.] R. M. PATTON.

By the governor:
MICAH TAUL,
Secretary of State.

The committee find further, that the trustees submitted to the Forty-second Congress an estimate of the cost of the lumber, carpenter's work, brickwork, and painting and glazing necessary to rebuild and restore the said church building, amounting to $13,353.58; that the estimates for lumber and carpenter's work were made by P. M. Irby, a practical housebuilder and carpenter, under oath; that the estimate for the brickwork was made, under oath also, by J. W. Winston, a practical brick-mason and housebuilder, and that the estimate for the painting and glazing was made, under oath also, by Messrs. Gassaway & Laughlin, practical house-painters and glaziers, and that the aggregate of the several estimates was the amount of $13,353.58, all of which is fully set forth in the detailed estimates, which will be found among the original papers filed with the committee in support of the claim of the trustees to just and proper compensation for the destruction of their church building.

The committee find, finally, that the building of said First Methodist Episcopal Church of Huntsville was taken possession of and occupied by the military forces of the United States, solely as temporary quarters and for use as a hospital for those of the detachment "who were sick;" that the occupation and possession of said church building was not necessary to the prosecution of any offensive or defensive military movement or maneuver; that such occupation of said building was intended

only to promote the convenience and comfort of the soldiers conformable to the practice, and, it having been the almost uniform practice of the Government to pay for the use or occupation of private property under circumstances similar to those attending the occupation of this church building, the committee are clearly of the opinion that justice and equity alike demand that the trustees of this church should be afforded the opportunity to establish judicially the facts alleged in their memorial.

A bill identical with the one in consideration was reported favorably in the Fiftieth Congress by unanimous vote of the Committee on War Claims (see Rep. 2193, Fiftieth Congress, by Mr. Bliss).

The committee therefore report the bill back without amendment, and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 265.

ROBERT SPAUGH.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 953.]

The Committee on War Claims, to whom was referred the bill (H. R. 953) for the relief of Robert Spaugh, submit the following report:

This measure was considered by this committee during the second session of the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 3756, Fifty-first Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1483) for the relief of Robert Spaugh, submit the following report:

This bill was twice favorably reported from the Senate, and your committee, after having the matter under consideration, have found the facts as reported in the Senate report hereinbelow set forth, and we adopt said report.

[Senate Report No. 472, Forty-fifth Congress, second session.]

The Committee on Claims, to whom were referred the petition and accompanying papers of Robert Spaugh, of Indiana, have had the same under consideration and make this report:

The petitioner is a citizen of the State of Indiana, and always faithfully adhered to the United States.

On the 18th day of February, A. D. 1859, the petitioner, and Thomas Essex and John Essex, as his sureties, made their promissory note to one John Vogler, of the State of North Carolina, whereby they promised to pay, one day after date, to the said John Vogler or order, the sum of $1,010. At the May term, A. D. 1863, of the district court of the United States, held at Indianapolis, in said State of Indiana, proper proceedings were instituted in said court to confiscate said note under the laws of the United States, it being alleged, according to law, that the said John Vogler was then and theretofore engaged in rebellion against the said United States.

Afterward said court made a decree of confiscation of said note, and ordered a sale of the same, and the same was sold by the marshal of the court on the 16th day of September, A. D. 1863, in obedience to the decree of the court, for the sum of $750. Of this sum, by order of the court, $108.34 was applied to the payment of costs in that behalf, and the balance, $641.66, was paid to the clerk of the court, to be paid into the Treasury of the United States. It appears that the money was paid into the Treasury less the cost, $108.34. The agent of the petitioner purchased said note for him, and he paid for it $750, as explained above. By mistake the proceedings of the United States district court to confiscate said note described the note as for $1,000,

and made and due at a day different from the above specified. It does not appear that the note was ever in possession of the court, although the marshal certifies that he arrested the property, but all the proceeding show that the note was not seized, and the description is uncertain, for the reason that the note was not in the possession of the United States attorney or United States marshal, and at the sale of the note it does not appear that the note was in possession of the officer.

This was an attempt to confiscate a note. This is shown in the whole proceeding. The note is attempted to be described, and it was the note that was sold. The marshal says in his return that he had arrested the property. If nothing further appeared in the record this ought to be conclusive on that point. (Miller *vs.* U. S.., 11 Wallace; Brown *vs.* Kennedy, 15 Wallace, 597.)

But the declaration that he had arrested the property must be taken in connection with the whole record, and then it becomes a proper inquiry whether the act of the marshal did or did not amount to an arrest of the property, and to determine this we need not take the bare return of the officer. (Miller *vs.* U. S., 11 Wallace, 296.)

If, as before stated, there was an attempt to confiscate the note, there must be an actual seizure of the note; and it can not now be said that the note was only the evidence of the debt, and that it was in reality an attempt to confiscate the credit. (See Pelham *vs.* Rose, 9 Wallace, 103; Pelham *vs.* Way, 14 Wallace, 296.)

If, then, the marshal did not have the actual possession of the note, the court was without jurisdiction and all the proceedings were void. (Miller *vs.* U. S., 11 Wall., 294; Brown *vs.* Kennedy, 15 Wall., 599.)

While the plaintiff in error can not dispute the marshal's return in the appellate court, yet it does not follow that the holder and owner of the note is bound by it when he brings his action on the note. If the maker sets up in defense the confiscation proceedings, the owner of the note can dispute the record and show that the marshal did not seize the note in fact as he asserted in his return. (Thompson *vs.* Whitmore, 18 Wall., 457; Knowles *vs.* Gas Light Co., 19 Wall., 58.)

As there was no seizure of the note by the marshal and no attempt to seize the credit, the purchaser took nothing by the purchase.

The laws concerning confiscation were made for the purpose of weakening the enemy and not to obtain money to carry on the war, and the Government when it attempts to take the property of an enemy and transfer it to a loyal citizen is bound to so conduct its proceedings that the loyal citizen will get a title to the property equal in all respects to the title of the public enemy.

At the May term, A. D. 1869, of the United States circuit court in and for the district of Indiana, held at Indianapolis, in said last-named State, the said John Vogler instituted his suit in said court against the petitioner and his said sureties to recover the sum of money due upon said note.

The petitioner set up sundry defenses, and, among others, the said proceedings in said district court of the United States, whereby the said note was supposed to be confiscated, etc. But the said court gave judgment in favor of the said John Vogler for the sum of $1,010 and interest on that sum from one day after the date of said note.

The grounds of the decision of the circuit court do not appear in the transcript of the record. The petitioner avers that he paid said judgment and costs on the 27th day of December, A. D. 1869, and the record shows such payment.

The above state of facts appear from transcripts of the records of said court and the sworn petition of petitioner, and the committee believe the statement substantially true. Upon consideration the committee think the petitioner ought to be paid the said sum of $750, and report the accompanying bill for the relief of the said Robert Spaugh and recommend that the same be passed.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 266.

THOMAS H. CARPENTER.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1457.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1457) authorizing the restoration of the name of Thomas H. Carpenter, late captain Seventeenth United States Infantry, to the rolls of the Army, and providing that he be placed on the list of retired officers, have considered the same and report:

This bill received the favorable consideration of this committee at the third session of the Forty-sixth Congress, and the report then made is hereto annexed. The committee concur in that report and recommend the passage of the bill.

[Senate Report No. 770, Forty-sixth Congress, third session.]

The Committee on Military Affairs, to whom was recommitted the bill (S. No. 129) authorizing the restoration of the name of Thomas H. Carpenter, late captain Seventeenth United States Infantry, to the rolls of the Army, and providing that he be placed on the list of retired officers, have duly considered the same and beg leave to make the following report:

Capt. Carpenter was appointed a first lieutenant from civil life in the Seventeenth United States Infantry May 14, 1861, and was promoted to the rank of captain May 4, 1863. He shared the different vicissitudes of the Army of the Potomac until the battle of Gettysburg. He was promoted to the brevet rank of major for gallant and meritorious services at that battle, where he was so severely wounded while charging the enemy on the morning of July 2, 1863, as to render him permanently unable to perform active military duty, and he has not up to the present time recovered from the disability caused by the wound which he received.

At Capt. Carpenter's request, in January, 1864, and while still using crutches, he was assigned to duty as assistant provost-marshal for the State of Iowa, and rendered such services as he was able to perform in his disabled condition until October of that year, when he was ordered to the headquarters of his regiment, at Fort Preble, Portland Harbor, Maine, where he continued for some time to perform such services as he was able to render. He was twice examined by Surg. Gen. Barnes, and was by him pronounced wholly unable to perform military duty, not only from the effects of a wound in the left thigh, but from inguinal hernia, resulting from services rendered in the line of duty as an officer. Dr. Barnes was also of opinion that either disability disqualified him for the performance of military duty. After performing such duty as he could at Fort Preble, from October, 1864, to August, 1865, using a cane when on duty as officer of the day, he was ordered before a retiring board, then in session at Wilmington, Del. A surgical examination there by Surgs. Baily and Edwards developed the fact that he had received a gunshot wound in the left thigh, that his knee was stiffened thereby, and that he was suffering from oblique inguinal hernia, requiring the use of a truss; but nevertheless the board, with these facts before it, found that he was not incapacitated for the performance of the active duties of his office in the field.

In February, 1866 on account of Capt. Carpenter's evident unfitness for the performance of active military duty he was again ordered before a retiring board, sitting

in Philadelphia. For some months previous to his appearance before this board he had been suffering severely from a sore throat, and had obtained a surgeon's certificate on that account as a ground for leave of absence. The surgeons on the board, not finding any disease of the throat (as he had recovered from that affection before appearing before them), appeared to take it for granted that he was capable of performing active service in the field, notwithstanding it was shown and admitted by them that he was suffering from permanent stiffness and lameness of the left leg, and also from hernia, requiring the support of a truss, and without such support his entrails would be liable to come down, and when down to strangulation, might result in death. They regarded the danger from this cause so great as to advise him to provide himself with a duplicate truss when in the field, to avoid danger in case one should break. Nevertheless, the board found and reported that he was not incapacitated for active service. The action of this board was such as to force him to resign. In sending in his resignation, he said:

"Having been pronounced permanently lame, but fit for duty in the field by the surgeons of a retiring board, I am forced to resign my commission as captain in the Seventeenth United States Infantry."

By staying in the Army he could of course have drawn full pay for years, and done no duty, for no commanding officer would have ordered anyone in his condition to perform active duty, and retirement would have been the ultimate result. But Capt. Carpenter did not look upon it in that light at that time.

In June, 1868, he attempted to have his case reopened, and to that end called on Gen. Hancock, who then had his headquarters in Washington, D. C. Gen. Hancock remembered the case and admitted the wrong and contradictory report of the surgeons, and called the attention of Gen. Schofield (then Secretary of War) to it. Gen. Schofield, as a first step toward righting an evident wrong, as he said, ordered Capt. Carpenter before a retiring board in New York City. The proceedings of this board show that he was suffering from lameness and hernia, but notwithstanding these facts, and the declaration of the board that he was thereby disqualified for appointment to an office in the Army, it found and reported that he was not incapacitated for active service at the time.

The certificate of Surg. Billings of March 15, 1869, approved by Surg. Gen. Barnes, shows that Capt. Carpenter was then suffering with hernia and from the effects of a gunshot wound, causing stiffness of the knee, by which he was rendered unfit for the duties of an officer serving with troops. The certificate of Surg. Basil Norris, of February 28, 1880, shows that Capt. Carpenter was still suffering from hernia and from the wound in his left thigh, and that from these causes, or either of them, he was disqualified for military duty. He was examined by a great number of surgeons (outside of the retiring boards) and all of them without a single exception have given it as their opinion that in consequence of his injuries he was unfit for military duty; and the certificates of the following surgeons and physicians to the same effect are filed with the papers in the case and can be readily referred to if necessary: Dr. A. O. Blanding, late surgeon Twentieth Iowa Volunteers; Dr. A. T. Hudson, late surgeon Twenty-sixth Iowa Infantry; Dr. George F. Wetherell, late assistant surgeon Twenty-sixth Iowa Infantry; J. S. Billings, assistant surgeon and brevet lieutenant-colonel, U. S. Army; Dr. Washington Reynolds, of Kittanning, Pa.; Harvey E. Brown, brevet major and assistant surgeon, U. S. Army; and Henry C. Parry, assistant surgeon, U. S. Army, Fort Preble, Me.

The official record of Capt. Carpenter's service, and Adjutant-General Townsend's letter of August 16, 1885, show that he was severely wounded at the battle of Gettysburg, July 3, 1863, and that in consequence thereof he was only assigned to light duty afterwards. Letters are also on file with the papers from Maj. S. H. Lathrop, Seventeenth United States Infantry; Lieut. Col. Andrews, Thirteenth United States Infantry; and Col. Greene, Sixth United States Infantry, testifying to the manner in which he performed his duty as an officer. His restoration with a view to retirement was recommended by the House Military Committee of the Forty-first Congress, and a bill authorizing his retirement passed the House on the 29th day of February, 1879, but reached the Senate too late for consideration.

In conclusion, the committee beg leave to say that they are of the opinion that the findings of the three retiring boards were erroneous, unjust, and not warranted by the true facts of the case. They believe that Capt. Carpenter was not fit at the time he was respectively examined by them to do field or garrison duty, or even to carry a sword and scabbard, as it was impossible for him to walk any distance without feeling great pain in his body and stiffness in his wounded leg; and there seems to be no doubt in the mind of your committee that if Capt. Carpenter had continued in the performance of military duty he would have aggravated his disease (hernia), and which would probably have resulted in his premature death.

From the above state of facts, the committee feel justified in reporting the bill back to the Senate favorably.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 267.

C. M. BLAKE.

FEBRUARY 10, 1892.—Laid on the table and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 1532.]

The Committee on Military Affairs, having carefully considered House bill 1532, beg leave to submit the following report:

The bill proposes to pay Charles M. Blake full pay as chaplain in the Army from April 28, 1869, to May 14, 1878.

In December, 1868, Chaplain Blake tendered his resignation and it was accepted, and his pay suspended April 28, 1869. It is in evidence that Charles M. Blake was insane. On his recovery the President of the United States on the 20th of May, 1881, appointed him chaplain in the Army. He is now supported by the Government. In the Forty-eighth Congress an act was passed for the relief of Chaplain Charles M. Blake, which contains this proviso:

Provided, That no pay shall be allowed or credit given for service for any purpose for the period from July 2, 1870, to May 14, 1878, and that said Blake shall accept the terms of this act in full satisfaction and discharge of any and all claims of every kind on his part against the United States growing out of his connection or alleged connection as chaplain or post chaplain.

During the period for which he is now seeking pay another chaplain performed all his duties and received the pay. He has been reinstated and is now supported by the Government. He accepted the act of the Forty-eighth Congress with the proviso above quoted; therefore your committee hold that Charles M. Blake has no legal or equitable claim against the Government of the United States and recommend that the bill (H. R. 1532) be indefinitely postponed.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 268.

GEORGE M. CLAPP.

FEBRUARY 10, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2930.]

The Committee on War Claims, to whom was referred the bill (H. R. 2930) for the relief of George M. Clapp, submit the following report:

This measure was considered by this committee during the first session of the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 752, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 4196) for the relief of the Washington Iron Works, have considered the same and make the following report:

The claimants are the Washington Iron Works, and on the 25th day of August, 1862, entered into a contract to build the engines and boilers for the wooden double-ender *Lenapee*. At the time of the signing of the contract the plans and specifications of said engines and boilers were not completed, and soon after the weight and size of the engines and boilers were increased. When the contract was accepted the weight of the whole material was not to exceed 325,000 pounds, but owing to the increase in size, when the machinery was completed the actual weight was over 600,000 pounds.

In 1864 the price of labor and material constantly advanced, a state of facts that could not have been contemplated, or in any way guarded against by the contractor at the time of making the contract. The work was delayed some two and a half years on account of the great change in the plans and specifications. During all this delay the price of labor and material was constantly advancing. The Navy and Army required men in the mechanical departments, as well as on the sea and on the field of battle. The contractor used every effort in his power to complete his work, and urged to haste with all the energy at his command.

The claimants lost large sums of money on account of the acts of the Government.

An appeal was made to Congress for relief, and on March 9, 1865, the Senate passed the following resolution:

IN THE SENATE OF THE UNITED STATES,
March 9, 1855.

Resolved, That the Secretary of the Navy be requested to organize a board of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels of war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price, and the allowance for extra work, and report the same to the Senate at its next session. None but those who have given satisfaction to the Department to be considered.

Under said resolution the honorable Secretary of the Navy appointed a board consisting of Commodore Thomas O. Selfridge, Chief Engineer Alex. Henderson, and Paymaster C. H. Eldridge, which convened at the Brooklyn navy-yard June 5, 1865, and continued in session more than six months.

The Washington Iron Works, coming under the terms of said resolution, presented their claim to said board, with the vouchers and the evidence in support of it.

See Senate Ex. Doc. No. 18, Thirty-ninth Congress, first session, page 8, as follows:

The board, after a critical examination of the bills of cost presented by the several contractors for vessels and steam machinery contracted for in the years 1862 and 1863, who have appeared and made sworn statements, has determined the excess of cost in the several cases over and above the contract price and allowance for extra work to be as follows: Engines and boilers for the wooden double-ender *Lenape*. $29,161.24.

All of which is respectfully submitted.

THOMAS O. SELFRIDGE,
Commodore and President of the Board.
MONTGOMERY FLETCHER,
Chief Engineer.
CHAS. H. ELDRIDGE,
Paymaster.

Hon. GIDEON WELLES,
Secretary of the Navy, Washington, D. C.

On January 31, 1866, this report was referred to the Committee on Naval Affairs of the Senate, which committee, on March 22, 1866, made a report thereon (No. 45, first session Thirty-ninth Congress) accompanying a bill for the payment of the awards thus made. In said report the committee say:

"From June till December last the board organized by the Secretary of the Navy under the Senate resolution, composed of eminent officers of the Navy, was engaged in hearing evidence and investigating the claims of these parties. That investigation seems to have been fairly, carefully, and thoroughly made. It was by officers of the Department, and the award, which the committee believe to be substantially right, should be adopted as the basis of relief to the parties, and therefore your committee report the accompanying bill."

One of the awards has been paid by joint resolution of March 30, 1867 (15 Stats., 353), by which Donahue, Ryan Secor were paid $179,000 for losses sustained by them in constructing the *Comanche*. Amount allowed by the board, $179,993.80.

In addition, the following special acts have been passed to relieve contractors in similar cases, to wit:

Act February 18, 1873, to relieve the heirs of George C. Bester, $125,000 (17 Stats., 733).

Act of June 1, 1872, to pay to Charles W. Whitney $50,000 (17 Stats., 671).

John Ericsson was allowed $1,070,438.93 for increased cost of the *Puritan*.

Act of June 10, 1872, to pay J. S. Underhill $23,310.75 (17 Stats., 691).

Miles Greenwood, of Cincinnati, Ohio, was allowed and paid for increase cost on the United States vessel *Tippecanoe*, $76,000.

Act of March 2, 1875, to pay Daniel S. Mershon, jr., $46,715.08 (18 Stats., 635).

The contractors for building the dome of the Capitol were awarded and paid $96,000 for increase in the price of labor and material during its construction. The Government prolonged the time of its completion. (See Senate Report No. 132, first session Thirty-ninth Congress.)

The question of the duty of the Government to relieve the contractors for the building of these vessels has been repeatedly recognized by Congress. (Slone, Report No. 17, Thirty-ninth Congress, second session; Senator Nye, Report No. 45, Thirty-ninth Congress, first session; Senator Drake, Report No. 163, Forty-first Congress, second session; Senator Nye, Report No. 37, Forty-second Congress, second session.)

In view of the facts that the above claim was examined by a committee appointed, and a board of competent naval officers, especially to investigate such claims, and that the sum of $29,161.24 was found to be rightly due the Washington Iron Works, for labor and expense on their contract (see Report of the Secretary of the Navy, Thirty-ninth Congress, Senate Ex. Doc. No. 18), the committee recommend that the bill pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 269.

RENT OF BRANCH FOLDING ROOM.

FEBRUARY 11, 1892.—Ordered to be printed.

Mr. DICKERSON, from the Committee on Accounts, submitted the following

REPORT:

[To accompany H. Res. — .]

The Committee on Accounts, to whom was referred the accompanying resolution, respectfully report.

The term for which the premises situated at No. 225 Pennsylvania avenue NW., were leased by order of the House for use as a branch or annex of the House folding room, expired by limitation on the 1st of January, 1892. The premises are required for use as heretofore.

Your committee report with the recommendation that the resolution do pass with the following amendment: Strike out "one hundred and fifty dollars" and insert in lieu thereof "one hundred and twenty-five dollars."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 270.

SALE OF PROPERTY UNDER ORDERS AND DECREES OF UNITED STATES COURTS.

FEBRUARY 11, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. BUCHANAN, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 5816.]

The Committee on the Judiciary, to which was referred House bills 264 and 265, has had the same under consideration and respectfully reports the same back with a recommendation that they lie on the table, and that the bill in lieu thereof, herewith submitted, be adopted.

The substitute reported provides that all real estate sold under order or decree of any court of the United States shall be sold at the courthouse of the county, parish, or city in which such real estate or the greater part thereof is located, or upon the premises, as the court rendering such order or decree of sale shall direct, and that all personal property sold under like orders or decrees shall be sold in the same manner as real estate unless. in the opinion of the court rendering such order or decree of sale, it will be best to make the sale in some other manner. It further provides that where the law requires notice of such sales to be made by publication, such notice shall be published in some newspaper published in the county, parish, or city in which such property is located.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 271.

JURISDICTION OF THE DISTRICT AND CIRCUIT COURTS OF THE UNITED STATES.

FEBRUARY 11, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. CULBERSON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 456.]

The Committee on the Judiciary have considered the bill (H. R. 456) to limit the jurisdiction of the district and circuit courts of the United States, and a majority of the committee recommend its passage with the amendment herewith reported.

The bill prohibits suits in the courts of the United States by or against corporations, except in the courts of the legal domicile of the corporation in cases where jurisdiction depends upon the citizenship of the parties.

It does not seek or attempt to disturb the jurisdiction of the courts in cases arising under the patent or copyright laws and in cases where the courts are authorized to take jurisdiction between citizens of the same State, as in controversies arising under the Constitution or laws of the United States. It will be seen, therefore, that the change in the law, proposed by this measure, contemplates the withdrawal of jurisdiction from the courts over a single class of cases, namely, controversies that may arise between a corporation doing business in a State other than that in which it was organized and a citizen of such State.

The amendment proposed would permit such citizen to sue the corporation in the State of its legal domicile.

It is submitted that, if a corporation accepts the hospitality and comity of a State, and opens its office and pursues its business within such State, that it should not be permitted to sue a citizen of such State in the courts of the United States. Aside from considerations which relate to the injustice of permitting a corporation to compel a citizen to litigate his rights in a tribunal remote from the place of the controversy, with advantages always on the side of associated capital, the best interests of the public—public policy itself—require the abolition of the jurisdiction of the courts over the class of controversies contemplated by this bill.

In the early days of the Government no lawyer entertained the opinion that a corporation was a "citizen" of the State under whose laws it was organized, in the meaning of that clause of the Constitution which provides that the judicial power of the United States should extend to "controversies between citizens of different States." The Supreme Court of the United States, following the obvious meaning of this provision, declared that if the individuals composing the corpora-

tion are citizens of the State creating the corporation they do not lose their right in a proper case to sue in the courts of the United States because the suit is in the name of the corporation. Thus it was held that, for judicial purposes, the corporation stood in the stead of the individuals who composed it, and unless all the individuals who composed it were citizens of the State creating it, the corporation could not be regarded a citizen of such State for the purpose of bringing it within the clause of the Constitution referred to. This was the doctrine of the court for nearly a half century.

It is evident that the framers of the Constitution never intended that a corporation composed of individuals residing in different States should be a citizen of the State creating it, yet the doctrine of the Supreme Court now is that a corporation must be held to be a citizen of the State creating it, regardless of the citizenship of any or all of the individuals composing it.

The measure now proposed does not contemplate the abolition or the change of this doctrine, indefensible as it evidently is, but recognizing it as the settled and fixed doctrine of the court, it is proposed, in the cases specified in the bill, to withdraw the jurisdiction.

Four-fifths of all the business of this country is performed by corporations and four-fifths of the litigation in the Federal courts is conducted by these courts. The circuit courts of the United States and the Supreme Court are loaded down with litigation which springs from the jurisdiction over corporations. It is believed that this measure, although it fails to remove the mischief complained of entirely, will serve the purpose of abridging it in a very great degree.

VIEWS OF THE MINORITY.

Mr. BUCHANAN, of New Jersey, submitted the views of the minority:

The undersigned finds himself unable to agree with the conclusions reached by the majority upon this bill.

The bill is a restriction and not an enlargement of the instrumentalities of justice. It prohibits suits in the courts of the United States by or against corporations, save at the legal domicile of the corporation. The courts have held, and very properly held, that where a corporation engages in business outside the State which gave it legal being, and employs in such business agents and officers upon whom service of process can be had, such service, if properly made, shall be held to bring the corporation within the jurisdiction of the court issuing such process.

Thus, a corporation created under and existing by virtue of the laws of the State of New York is, in law, held to be a citizen of the State of New York. Such corporation, if found doing business in the State of Pennsylvania or New York, or other State, and employing officers or agents therein, is held to be still a citizen of the State of New York, and suits brought by or against it against or by a citizen of such other State, in a United States court situated in such State, to be within the jurisdiction of such court, and service upon such officers or agents, if otherwise properly made, to vest jurisdiction of the subject-matter, if otherwise proper, of such suit.

In point of fact many such suits have been brought and maintained in the courts of the United States. In some portions of the country the corporations have availed themselves of this right to bring in Federal courts suits against citizens of States within the bounds of which such courts are situated. This has been, it is stated, a source of hardship to such defendants, the session of such courts in many instances being held far distant from the homes of the defendants. The bill is intended to cure this alleged evil.

But, in the judgment of the undersigned, the proposed remedy goes too far and will work injustice upon the other side. While it may be true that in some of such suits defendants have been put to inconvenience, it is also true that in other cases persons who have received injury at the hands of corporations have for various reasons preferred to bring their actions against such corporations in the Federal courts. The reasons need not be stated in detail here. They exist and are well known in many sections of the country. To deny to an individual who has suffered injury from the acts or omissions of a corporation foreign to his State the use of the Federal courts, located within the boundaries of his own State and at his own home, in which to prosecute his suit for redress against such foreign corporation, is to that extent a denial of justice.

In another respect the provisions of the bill, if enacted into law, might work hardship, and certainly would work inconvenience.

A railway company defaults its bonds. The bondholders foreclose. If this bill becomes a law the foreclosure and receivership proceedings, if taken in a Federal court, would have to be taken in the Federal court within the territorial jurisdiction in which is the home office of the company.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 272.

NEWARK, N. J.

FEBRUARY 11, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. WISE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 532.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 532) extending the privileges of sections 1 and 7, act June 10, 1880, to the port of Newark, N. J., submit the following report:

The purpose of this bill is to extend the provisions of the act approved June 10, 1880, in the interest of commerce, and to facilitate the importation and transportation of merchandise, and does not increase the cost of conducting official business.

The Secretary of the Treasury approves the object of this bill, and your committee unanimously recommend that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 273.

CLAIM OF THE STATE OF FLORIDA.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BULLOCK, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 82.]

The Committee on Claims, to whom was referred House bill No. 82, submit the following report:

The mutual accounts between the United States and the State of Florida, involved in the bill (No. 82) now under consideration, originated from the advances made by the State in the suppression of Indian hostilities, and in the purchase of State bonds by the Indian trust fund upon the security of the United States' indebtedness to the State for these advances.

The liability of the United States to Florida for these advances has not only the authority of the United States Constitution, but also of numerous precedents in like cases of advances in the war of the revolution, the war of 1812, and of every other war in which the States have made advances toward the public defense. The liability of the State of Florida to the Indian trust fund is attested by the possession by that fund of the State's bonds.

The bill (No. 82) is for the adjustment and settlement of these mutual accounts.

The claim of the State for these advances was, by act of Congress of March 3, 1881 (12 Stat. L., p. 520), investigated, ascertained, approved, and reported to Congress by the Secretary of War, with the report of Maj. Thos. F. Barr, Judge-Advocate of the U. S. Army, in Ex. Doc. 203, Forty-seventh Congress, first session. The Committee on Claims of the Forty-ninth Congress, considered that report and reported a bill founded thereon, favorably, and the House of Representatives passed the bill for the settlement and payment of those accounts, but that bill was passed over in the Senate.

In the Fiftieth Congress the same bill was again considered by this committee and favorably reported, but instead of action being taken thereon by the House, it was deemed best to have the claims and accounts examined and investigated by the officers of the Treasury, and to that end the fifth section of the deficiency act, approved March 2, 1889 (25 Stat. L., p. 939), directed the Secretary of the Treasury to examine this claim against the United States, as reported by the Secretary of War, and also to report to Congress the amount of all claims of the General Government against the State of Florida,—that report of the Secretary of the Treasury, dated December 14, 1889, is printed as Ex. Doc. 68, Fifty-first Congress, first session.

Thus both the executive departments of War and of the Treasury have examined and approved these mutual accounts, and reported them to Congress for an appropriation to settle and pay the balance.

That balance the Secretary of the Treasury reported in two forms—in both of which the principal sum due that State is fixed at the sum of $261,934.31, and the principal of the sum due the General Government from Florida is found to be the principal of the State's bonds held by the Indian Trust Fund, viz: $132,000, and both statements recognize that interest is due on each account.

By the first form of stating the mutual accounts the Secretary carries interest on the principal due the State from January 1, 1858, to January 1, 1890, and the principal due from the State to the United States is $132,000, with interest from November 27, 1873, to January 1, 1890, and the balance found due the State by the Secretary of the Treasury on January 1, 1890, is stated at $567,954.50. This form of stating the account, if brought down to the day of settlement under the bill under consideration, will be accepted by the State as a proper and full adjustment of these mutual accounts.

The committee recommends the following amendment in order to close the settlement of these accounts.

In line 20 of first section, strike out the words "the passage of" and insert "the settlement under," and, so amended, recommend the passage of the bill.

Your committee append to this report the report of the Committee on Claims of the Fiftieth Congress, and also the letter of the Secretary of the Treasury dated December 16, 1889.

[House Report No. 367, Fiftieth Congress, first session.]

The amounts to be reported to Congress, in the view taken by me of the provisions of the joint resolution of March 3, 1881, are as follows:

Abstract A	$154,623.66
Abstract B	7,890.92
Abstract C	34,669.74
Abstract D	17,247.39
Abstract E	98.59
Abstract F	395.16
Abstract G	187.90
Abstract H	9,015.81
Abstract I	16.10
Abstract K	501.32
Account of J. H. Cooper	7.50
Total	224,642.09

An amount less by $54,985.58 than that of the claim as submitted by the State; $11,316.91 of this is for payment of troops for service in 1849, and $6,270.37 for the payment of two companies in cases where both muster and pay rolls are missing and referred to specifically in this report in consideration of Abstract A. The reasons for the failure to include the remainder have been hereinbefore set forth.

"Very respectfully, your obedient servant,

THOMAS F. BARR,
Judge-Advocate, United States Army.

The SECRETARY OF WAR.

The expenditures grew out of the Seminole war of 1855, 1856, and 1857, the State authorities being compelled, in the presence of an anticipated and subsequently actual outbreak of the Indians, to call forth the militia of the State, the force of United States troops then on duty being inadequate to the protection of the people. The report of the Secretary of War (Ex. Doc. 203) fully sets forth in detail the items

of expenditure allowed and disallowed. The total amount of the claim found to be due is $224,648.09.

All of the facts are set forth in letter from the Secretary of War heretofore appended, together with copies of documents which establish the necessity for the use of the troops.

From the records cited in said letter it clearly appears that the use of the troops was approved by the authorities, viz, President of the United States through the Secretary of War, and that orders were issued to have them mustered in and out of the service of the United States, so that they might be paid as other United States troops were paid.

It also appears that the orders for such mustering in and out of the service did not reach the seat of war in said State in time, and the State was left to pay the troops.

Upon this subject the following statement and letters seem conclusive:

"On the 8th of May, 1857, the governor of Florida addressed a communication to the Secretary of War, setting forth at considerable length his action in calling for troops, the service in which they were employed for the protection of the citizens, and the faithful manner in which they acquitted themselves. He called special attention to the fact that these forces had acted in effective coöperation with the United States troops; and, to emphasize the necessity of the course he pursued, he alluded to the circumstance that when Brig. Gen. Harney was subsequently ordered to the command in Florida he felt it necessary, in addition to a greatly increased regular force, to make requisition for ten mounted and five foot companies of volunteers, 'being,' as the governor remarks, 'a much larger volunteer force than had at any previous time since this last outbreak occurred been employed by the Federal and State authorities combined, thus fully indorsing and vindicating the action of the State in this matter.' The governor concluded his letter by asking the Secretary of War, in behalf of the United States, 'to approve and adopt the service.'

"Upon this letter of Governor Broome's are indorsements of the Paymaster-General and Adjutant-General, reciting that according to the precedents it was only necessary for the President to recognize the troops as having been in the service of the United States, and direct that they be mustered in and out of service, when they could be paid upon an appropriation therefor being made by Congress. The Adjutant-General recommended that 'an officer be sent as soon as possible to muster them in and out of the service of the United States,' which recommendation was approved by the Secretary of War, who notified the governor as follows:

"WAR DEPARTMENT,
"*Washington, D. C., May* 21, 1857.

"SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, asking an approval of the services of certain volunteers called out by you, and in reply to inform you that the explanation as to the necessity of their services is satisfactory, and orders have been issued to the officer commanding in Florida to muster them in and out of the service of the United States.

"Very respectfully, your obedient servant,

"JOHN B. FLOYD,
"*Secretary of War.*

"His excellency JAMES E. BROOME,
"*Governor of Florida, Washington.*"

"WAR DEPARTMENT,
"ADJUTANT-GENERAL'S OFFICE,
"*Washington, D. C., May* 21, 1857.

"SIR: I have the honor to transmit a copy of a letter addressed by the governor of Florida, under date of May 3, 1857, to the Secretary of War, respecting volunteers called out by the former to suppress Indian hostilities in Florida, but never regularly mustered into the service of the United States.

"The services of these volunteers having been recognized and approved by the President, the Secretary of War directs that you cause one of the officers of your command to muster into and out of the service of the United States, as soon as practicable, the troops indicated by Governor Broome, to the end that they may be paid whenever Congress shall make the necessary appropriation for the purpose. A supply of blank muster rolls will at once be sent to your address.

"I am, sir, very respectfully, your obedient servant,

"S. COOPER,
"*Adjutant-General.*

"COMMANDING OFFICER, DEPARTMENT OF FLORIDA,
"*Tampa, Fla.*"

"On the 7th of July following the governor wrote to the Secretary of War, stating that it had been found to be impracticable to muster in those troops, as directed by the Secretary, they having long since been disbanded, and it being impossible again to assemble them at any one point. The governor suggested that the muster be made from the properly certified rolls of the State. To this the Secretary replied that no officer could make a constructive muster, as suggested, but that to certify the rolls he must have mustered the troops present. The Secretary adds:

"'Under the circumstances the only course left for the Department is to receive as official the State rolls, duly certified by the State authorities, and to base upon them a recommendation to Congress for the appropriation necessary to pay off the troops. This course will obviate the difficulties mentioned by you on account of the disbandment of the volunteers in question.'" (See muster rolls in appendix.)

Congress having directed the Secretary of War to ascertain the amount of the claim of Florida, and that Department having reported the amount of the claim of the State to be $224,648.09, there is no difficulty presented as to the amount.

The grounds for the claim being clearly set forth, the question arises, Is it the duty of the Government to pay said claim?

The Constitution, the laws, and the precedents in similar cases establish this liability.

Article 4, section 4, of the Constitution expressly enjoins upon the United States the duty to "protect them (the States) against invasion." The act of February 28, 1795, was passed to effectuate that provision of the Constitution, and its section 1642, R. S. included "invasion of Indian tribes" as one of the kind of invasions against which the United States shall guaranty the States.

The question of authority on the part of the President in such cases is no longer an open one, but has been decided by the Supreme Court in Luther *vs.* Burden (7 Howard, 45), that the President was the sole and exclusive judge of the fact as to when an emergency calling for Federal aid to repel invasion had arisen, and that "the State itself must determine what degree of force the crisis demands." The same was also held in Martin *vs.* Mott (12 Wheaton, 29).

In the case of Florida the State did determine that the employment of the State troops was necessary, and the Secretary of War, whose official acts are those of the President (Wilcox *vs.* McConnell, 13 Peters, 513), did decide in May, 1857, that the State troops maintained and paid by Florida were essential to the security of the State, and approved and adopted their service, and ordered that they be "mustered in and out of the United States service," that they might be paid.

Under these authorities quoted above the decision of the President was final and conclusive upon all parties, and can not be disturbed or inquired into by Congress or the courts.

The President decided that an emergency had arisen calling for Federal aid in protecting Florida. The governor decided that additional force was needed and the President approved his decision, and these troops were employed and paid by the State. Congress directs the War Department to ascertain what amount was so paid by Florida, and he ascertains and reports the sum.

A line of unbroken precedents setting forth the action of the Government in similar cases establishes the liability of the Government to pay the claim and to reimburse the State for money expended.

Such a basis of settlement introduces in this case the question of interest.

It is established that the funds at the command of the executive of the State of Florida in the years referred to were insufficient to equip, supply, and pay the troops in the field, and, relying upon the approval given by the President of the United States, through the Secretary of War, on the 21st day of May, 1857, of the services of these volunteers, the State legislature, in order to provide their equipment and maintenance, authorized the issue of 7 per cent bonds.

A portion of the bonds, amounting to $132,000, was sold by the governor to the Indian trust fund of the United States, and the proceeds of such sale were disbursed by the treasurer of the State for the "expenses of Indian hostilities," as appears from his report to the legislature for the year ending October 31, 1857 (Ex. Doc. 203, Forty-seventh Congress, first session). Another portion was hypothecated to the banks of South Carolina and Georgia as security for a loan of $222,015, and $192,331 of this loan was disbursed directly by a disbursing agent of the State in payment of "expenses of Indian hostilities," including pay of volunteers (Ex. Doc. 203, Forty-seventh Congress, first session, hereto appended).

The Government has uniformly paid interest in cases where the States have borrowed money expended in its behalf, upon which they themselves have paid interest.

We cite the cases where interest has been allowed and paid for moneys advanced during the war of 1812–'15, as follows:

Virginia, act March 3, 1825 (4 Stat. at Large, p. 132).
Maryland, act May 13, 1826 (4 Stat. at Large, p. 161).
Delaware act May 20, 1826 (4 Stat. at Large, p. 175).

New York, act May 22, 1826 (4 Stat. at Large, p. 192).
Pennsylvania, act March 3, 1827 (4 Stat. at Large, p. 241).
South Carolina, act March 22, 1832 (4 Stat. at Large, p. 499).
Massachusetts, act July 8, 1870 (16 Stat. at Large, p. 198).

For advances for Indian and other wars the same rule has been observed in the following cases:

Alabama, act January 26, 1849 (4 Stat. at Large, p. 344).
Georgia, act March 31, 1851 (9 Stat. at Large, p. 626).
Georgia, act March 3, 1879 (20 Stat. at Large, p. 385).
Washington Territory, act March 3, 1859 (11 Stat. at Large, p. 429).
New Hampshire, act January 27, 1852 (10 Stat. at Large, p. 1).

In addition to the citations above, there seems nowhere any conflict of authorities upon this point.

Following the same line will be found the reports of the Senate Committee on Claims, No. 2, Forty-ninth Congress, first session, and No. 1900, Forty-ninth Congress, second session, respectively.

The opinion of Attorney-General Wirt on an analogous case is as follows:

"The expenditure thus incurred forms a debt against the United States which they are bound to reimburse. If the expenditures made for such purpose are supplied from the treasury of the State, the United States reimburse the principal without interest; but if, being unable itself, from the conditions of its own finances, to meet the emergency, such State has been obliged to borrow money for the purpose, and thus to incur a debt on which she herself has had to pay interest, such debt is essentially a debt due by the United States, and both the principal and the interest are to be paid by the United States." (See Opinions of Attorneys-General, vol. 1, p. 174.)

In addition, the opinion of Attorney-General Crittenden, who says:

"The act of 27th of February, 1851, is intended to indemnify the State against loss or damage. Reimbursing means repairing the loss or expenses by an equivalent. If the State of Florida has contracted obligations bearing interest, or has paid money with interest, for the use and benefit, in necessary and proper supplies for the troops called into service in 1849, to refund to the State of Florida the principal sum only, without the interest, would not reimburse the State, would not save the State from loss and damage, would not be an equivalent for the expense the State has incurred for the United States. There is no public policy, no saving to the public treasury, no virtue, no laudable end consulted in order to cut down the claims of the several States in opposition to the intention of Congress and the good faith of the Government."

Also of Attorney-General Brewster, in case of the State of New York, dated July 23, 1883—

"Undoubtedly the interest paid by the State of New York on money borrowed and applied to the objects specified in the act of July 27, 1861, forms a part of the burden borne by that State for general public defense, and constitutes a just charge against the United States, and the obligation to reimburse for payments of that kind, made under similar circumstances, has frequently been recognized by Congress, as appears by statutes above cited."

Upon the facts as presented by the official records of the State of Florida, by those of the War Department as set forth in letter of Secretary appended hereto, and from the law and precedents, your committee arrive at the following conclusions:

1. That the services were rendered by the troops of the State of Florida in connection with the Army of the United States.

2. These services were recognized and approved by the President and Secretary of War, and the Secretary of War issued orders that the troops be mustered in and out of the service of the United States for the purpose of paying for such service in the usual and regular way.

3. That before the orders for mustering in and out of service reached Florida, the State troops had been disbanded, and they could not be actually mustered, and the officers of the Army decided that there could not be a constructive muster, which was right and proper, and which brought the claim to Congress.

4. The report of the Secretary of War excludes all claims and charges except those usually allowed to the regular Army under similar circumstances.

5. The amendments recommended continue to shut out these claims and claims heretofore allowed or disallowed under other appropriations.

6. The law has been decided to be that where a State pays interest on disbursements for the United States, that in allowing the claim interest shall be allowed.

The case is further strengthened, in the opinion of the committee, by the fact that a committee of the Senate has twice reported a bill to pay the State of Florida the sum of $92,000, and a bill to that effect passed the Senate on June 9, 1886. (See Congressional Record, first session Forty-ninth Congress.)

A bill identical with this, as has been stated, passed the House of Representatives,

second session Forty-ninth Congress, the only difference between the two bills being the amount of the appropriation.

Therefore, the passage of the bill with the following amendments is recommended:

Strike out in lines 10 and 11 the words "and also any further sum that may be found to be due the said State on any other account."

In line 14, section 2, after the words "direct tax" insert the words "under the."

In line 20, after the word "paid," insert "*And provided further*, That no portion of any claim heretofore paid said State under any appropriation by Congress shall be considered in said settlement."

[House Ex. Doc. No. 203, Forty-seventh Congress, first session.]

Letter from the Secretary of War relative to the claim of Florida against the United States for the suppression of Indian hostilities between the years 1855 *and* 1860.

WAR DEPARTMENT, *Washington, May* 22, 1882.

SIR: I have the honor to transmit herewith a report prepared in this Department, in accordance with the provisions of a joint resolution approved March 3, 1881 (21 Stat., 520), for the investigation of the claim of the State of Florida against the United States for the suppression of Indian hostilities between the years 1855 and 1860.

A duplicate of this report has this day been transmitted to the President *pro tempore* of the Senate.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

To the SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Report of Maj. Thomas F. Barr, judge-advocate, United States Army.

WAR DEPARTMENT,
DIVISION OF REQUISITIONS AND ACCOUNTS,
May 20, 1882.

SIR: I have the honor to submit in duplicate the following report upon the claim of the State of Florida against the United States for expenditures made in suppressing Indian hostilities in said State between the years 1855 and 1860:

This report is based upon the provisions of the joint resolution of Congress approved March 3, 1881, as follows:

"That the Secretary of War be, and he is hereby, authorized and directed to investigate, ascertain, and report to Congress, as soon as practicable, the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860. In making such investigation the said Secretary is directed to receive and consider such testimony as he may deem necessary or proper for or against claims, including the muster-rolls of the State troops, and such other official data as may be on file in the War Department.

"In submitting his report to Congress the said Secretary shall not include any payments or allowances made by the State in excess of the amounts allowed by law at the time in behalf of troops regularly in the service of the United States." (21 Stat., 520.)

From data afforded by the records of the War Department and executive publications of the State of Florida, the history of the affairs that caused the expenditures set forth in the claim now under consideration appears as follows:

Military operations in Florida during the years 1855, 1856, and 1857 extended over an area of 27,400 square miles, and were against ninety-eight hostile warriors. The forces engaged were as follows:

1. Regular troops numbered 840 in 1855; 866 for first nine months of 1856; 1,756 from October 1, 1856, to September, 1857; and 339 for the remaining four months of 1857.

2. Volunteers called out and mustered into the service of the United States (none in 1855), 321 in 1856; 1,164 in 1857.

3. Militia forces called out by the State authorities for short periods of service between December 1, 1855, and January, 1857. (See annexed Exhibit No. 1.)

December 7, 1855, Lieut. Hartsuff, of the Second Artillery, with two noncommissioned officers and eight privates, left Fort Myers, Fa., to reconnoiter the Big Cypress Swamp and its neighborhood. During the previous winter he had repeatedly passed alone, or with an escort of one man, over the very same ground, and the Indians had given no evidence of a hostile disposition. Between the date of its departure from Fort Myers and the 20th of the same month, Lieut. Hartsuff's party visited many places which had been occupied by Indians in previous years, and from signs of abandonment discovered "came to the conclusion that the Indians had left the country, with the exception of a few stragglers, and had gone, probably, to the seaboard." On the last-named date, when encamped about three miles north of Billy's Town, on an island covered with dwarf palmettos, and before breakfast, whilst preparing for a march, was attacked by a party of Indians whose number was estimated to be from twenty-five to fifty. The lieutenant and three of his men were wounded, four men were killed, and three men escaped. (See exhibits annexed, Nos. 2 and 3.)

Indian hostilities prior to and at the time above specified were anticipated by the State authorities, as is shown in the governor's message to the assembly, dated November 24, 1856, from which is taken the following extracts:

"On the 12th day of January, 1853, the general assembly passed an act entitled 'An act to provide for the final removal of the Indians from this State, and for other purposes.' The first section of that act makes it unlawful for any Indian to remain in the State. The second section requires the governor to raise a brigade.

"The fifth section provides that the governor shall tender said brigade to the Federal Government for the removal of the Indians.

"The sixth section makes it the duty of the governor, in the event of the Federal Government refusing to accept the services of said brigade, forthwith to secure the frontier settlers and employ the brigade in capturing the Indians, etc. The seventh and ninth sections provide for meeting the expenses of the force. The eleventh section provides that when the Indians commence actual hostilities the governor shall carry this act into execution."

After thus citing the law, the message continues:

"In obedience to the requirements of the act, I attempted, on my inauguration, to raise the brigade. The mounted regiment was readily procured and organized, but the infantry regiment I found it impracticable to recruit. In December last the contingency occurred upon the happening of which the executive was required to carry the law into execution. The Indians commenced actual hostilities by attacking a detachment of United States troops, commanded by Lieut. Hartsuff. This attack was entirely unexpected, and found our frontier population in an unprotected condition. The officer in command of the United States forces was not able to give promptly the protection required for such a line of frontier, and the citizens, naturally and properly, called upon the State government to protect them in the enjoyment of their lives and property. Before, however, the decision of the executive could be obtained, many men from the counties of Manatee, Hillsboro., and Hernando, moved by patriotic impulses, had organized themselves into companies, elected officers, armed, equipped, and rationed themselves, and had marched to the frontier. These companies I promptly recognized as in the service of the State, and instructed them to give efficient protection to the frontier population, and prevent, if possible, the breaking up and abandonment of the settlements. I immediately tendered to the Secretary of War such portion of the brigade as had been raised, and offered to raise the balance at the earliest practicable period. He declined, however, to receive more than five companies, three of mounted men and two of infantry, the latter of which I could only procure to the extent of one detachment.

"The three mounted companies of volunteers, numbering, rank and file, about 260 men, were all the force of that description that I was advised the Government designed using for frontier protection. This, to my mind, was quite insufficient for the reasonable protection of the country, to say nothing of furnishing pursuing parties when the Indians should make their appearance in the settlements.

"I therefore determined to retain in the service of the State the companies of Capts. F. M. Durrance, L. G. Lesley, William H. Kendrick, and Abner Johnson, and afterward added a detachment under Lieut. John Addison, making, rank and file, about 400 men. These troops have been employed partly on the frontier and partly in the Indian country. Detachments have, on three several occasions, overtaken and fought the enemy, once recovering a large amount of property (of which they had robbed one of our best citizens), and killing, as was supposed, from four to seven Indians.

"This was effected under Lieut. John Addison, without loss. The other two engagements were by small detachments from the companies of Capts. F. M. Durrance, L. G. Lesley, and W. B. Hooker, and were the most gallantly contested actions that have probably ever occurred in Florida. The Indians, having the advantage in point of numbers, appeared determined to destroy their pursuers, and such was the desperation with which they fought that one contest was decided by a resort to pocket-

knives, in which an Indian was killed by having his throat cut. In these three engagements it is supposed that over 20 Indians were killed and a number wounded, and so thoroughly were they chastised that, although more than five months have elapsed, they have not, as I have been advised, ventured an engagement or even an attack upon the frontiers. In these last two engagements we lost, in killed, Lieuts. Carleton, Whiddon, and William Harker, some of the most gallant spirits of our little army; and while all did their duty nobly, and are entitled to the gratitude of the whole State, the memories of those who perished should be embalmed in every heart.

"For a more detailed account of these gallant actions, I respectfully refer to the report of Capt. F. M. Durrance, herewith communicated." (See annexed Exhibit No. 4.)

Immediately succeeding the surprise and defeat of Lieut. Hartsuff, much uneasiness was exhibited among the frontier settlements. The governor of the State, Federal military officers, officials connected with the Indian service, and the United States postmasters, as well as the citizens whose lives and property were in danger, seem to have unitedly suggested the employment of volunteer troops and the forcible removal or destruction of the Indians. These facts are shown in the voluminous correspondence then had upon the subject, some of which accompanies this report.

On January 3, 1856, the Secretary of War wrote to Capt. Casey, of the Army, then on Indian service in Florida:

"The occurrence of actual hostilities commenced by the Seminole Indians suspends all instructions heretofore given with a view to effect the peaceable removal of those Indians." (See Exhibits 5 and 6.)

On the 7th, following, he authorized the employment in United States service of five companies of volunteers. (See Exhibits 7 and 8.) Under this authority four companies were received into the United States service—two on February 18, one on March 1, and one on March 10, 1856; and from the time last mentioned until May, 1858, some four or five companies of volunteers were continued in the said service, and were paid and supplied as were regular troops.

Before the organizations were received into United States service, however, they, with other bodies of men, had been accepted by the governor, and had been actively employed as militia companies in the service of the State.

Of some of these organizations the department commander, Col. Munroe, wrote to the governor, January 12, 1856, that—

"The State volunteers, under Capts. Kendrick and Johnston and Lieut. Kendrick, performed their thirty days' service south of the Caloosahatchee and in the Everglades, with much credit to themselves; and they have been spoken of by the United States officers with whom they were associated on their tour in the most favorable manner." (See Exhibit No. 9.)

The communication of January 12, 1856, seems to be the first recognition had through any United States official of services rendered by the militia after the surprise in December, 1855. The companies above mentioned, as those of Capts. Kendrick and Johnston and Lieut. Kendrick, were in the militia service of the State at the time, and did not become United States volunteers until a later period.

The expenditures made by the State for these and other militia companies from December, 1855, to December 31, 1860, are now presented for consideration under the resolution of Congress aforesaid.

The organizations to which the expenditures relate, with number of vouchers for their pay, period of State service paid for by the State, and time of muster into United States service, are specified on the annexed Exhibit No. 10.

The claim of the State is submitted on abstracts of vouchers, as follows:

A, for pay of troops	$180,037.28
B, for subsistence	23,474.90
C, for forage	42,279.52
D, for transportation	19,843.28
E, for camp and garrison equipage	193.81
F, for quartermaster's stores	589.67
G, for ordnance stores	808.43
H, for contingencies	10,332.84
I, for stationery	111.11
K, for medical and hospital stores	1,362.83
Total	279,033.67

After my assumption of the duties of this office a communication was addressed to Hon. William D. Bloxham, governor of the State of Florida, requesting him to furnish the War Department with a transcript, under seal of the State, of the financial statement of Capt. J.W. Pearson, disbursing officer, exhibiting expenditures made in settlement of militia claims, for service and for supplies, in the year 1856 (an uncer-

tified copy of which had been submitted as a partial basis of the claim under consideration), and also of any other financial exhibits to be found on the records of the State germane to the subject. (See Exhibit 11.)

Under date of April 12, 1882, Governor Bloxham forwarded the transcripts as requested (see Exhibits 12, 13, and 14), from which it appears that Capt. Pearson was given credit in the settlement of his accounts for the sum of $193,330.16; and that warrants drawn by the State treasurer on account of Indian hostilities amounted to $78,056.11. These sums aggregate $271,041.27, or $7,992.40 less than the amount claimed to have been expended by the State according to the claim as hereinbefore set forth.

On December 20, 1859, as appears from page 113 of a journal of the proceedings of the senate of the general assembly of the State of Florida covering that date, a resolution was *introduced in the senate* calling upon members of Congress from Florida to procure the passage of a law refunding to the State the sum of $241,300, advanced by the State on the payment of Florida troops. This sum is the amount of the loan negotiated by the State upon which $222,015 was realized and placed in the hands of Capt. J. W. Pearson for disbursement. All the amounts seth forth in the transcripts furnished by the governor were, it is to be remarked, expended prior to the date when this resolution was offered. These discrepancies of statement as to amounts expended, coupled with the loss and destruction of certain vouchers during the war of the rebellion, serve to greatly embarrass a consideration of the claim as submitted.

After a careful study of the resolution it was concluded by me that its scope only embraced expenditures made incident to the suppression of Indian hostilities during the period mentioned therein, and that it did not embrace the payment of antecedent claims of a like character which happened to be paid at the same time as were the claims specified by the terms of the resolution. Acting upon this judgment, I have eliminated from consideration the following payments made by the State for services in the year 1849:

Capt. Hansford D. Dyche's company	$4,786.43
Capt. Aaron Jernegan's company	4,929.48
Capt. James O. Devall's company	1,601.00
	11,316.91

This leaves the sum of $168,720.37 to be passed upon under the head of Abstract A, for pay of troops. This abstract, with its accompanying vouchers, was referred to the Paymaster-General of the Army for examination and report upon the propriety of the payments made under the laws of the United States governing organization and rates of pay and allowances during the period charged, and also as to what payments should not be accepted under the terms of the joint resolution. (See Exhibit 15.) Both pay and muster rolls of Capt. John McNeil's company and Capt. Simon Sparkman's company, upon which payments amounting, respectively, to $3,303.06 and $2,967.31, appear to have been made by Capt. Pearson, have been lost, so that rolls amounting to but $162,450 could be submitted to the administrative scrutiny of the Paymaster-General.

As to the payments embraced in this amount, that officer submits a report, dated April 20, 1882 (see Exhibit 16), with statements of differences, numbered to correspond with the vouchers to which they respectively pertain, showing in detail the amounts claimed, allowed, suspended, and disallowed, with reasons for suspension or disallowance. (See Exhibit 17.)

This statement notes suspensions to the extent of $50,852.11, and disallowances in the sum of $11,977.40, leaving $99,620.49 as the amount allowed under the strict rules of examination governing the scrutiny of paymasters' accounts in the office of the Paymaster-General. Under the joint resolution of Congress, however, it is conceived that those rules cannot be so applied, and that the chief purpose of the investigation thereby directed is to ascertain what expenditures were actually made by the State in the suppression of Indian hostilities by its militia, of a character which would have been made by the General Government had the troops in question been in its service. In this view suspensions of amounts paid to attorneys or administrators because no power nor letter of administration is found, while property noted by the Paymaster-General, will not govern the conclusion of this report. The vouchers will be considered in their order, as follows:

Voucher No. 1.—Amount, $4,809.57; suspended, $307.87; disallowed, $252.56. The disallowances are based upon overpayments. The company was mustered into the United States service February 21, 1856, and paid for that day in such service, while it appears by this voucher its members were paid by the State. The suspension rests on the absence of powers of attorney and letters of administration. These payments were made by the State in 1859, and the accounts of the officer by whom they were paid were accepted and certified to by the proper State officers. It may be assumed that he furnished satisfactory proof of their having been made to authorized parties

at that time. It is my conclusion, therefore, that the amounts suspended in this voucher should be added to the amount allowed. Together they aggregate $4,557.01. (See Exhibit 18.)

Voucher No. 2. Amount, $15,794.91; suspended, $6,916.81; disallowed, $789.19. The same remarks apply to this statement as are noted in regard to voucher No. 1. The amount admitted as falling within the intent of the joint resolution is $15,005.72. (See Exhibit 19.)

Voucher No. 3. Amount, $9,693; suspended, $3,598.24; disallowed, $125.08. Applying rule as above, amount allowed should be $9,567.92. (See Exhibit 20.)

Voucher No. 4. Amount, $16,277.99; suspended, $2,235.20; disallowed, $119.53. Amount allowed should be $16,158.46. (See Exhibit 21.)

Voucher No. 5. Amount, $8,906.50; suspended, $1,581.34; disallowed, $74.39. Amount allowed should be $8,832.11. (See Exhibit 22.)

Voucher No. 6. Amount, $16,739.85; suspended, $3,638.36; disallowed, $280.19. Amount allowed should be $16,459.66. (See Exhibit 23.)

Voucher No. 7. Amount, $8,833.93; suspended, $2,084.19: disallowed, $127.47. Amount allowed should be $8,706.46. (See Exhibit 24.)

Voucher No. 8. Amount, $14,108.34; suspended, $888.83; disallowed, $368.04. Amount allowed should be $13,740.30. (See Exhibit 25.)

Voucher No. 9. Amount, $574.68; suspended, $90.18; disallowed, $30.19. Amount allowed should be $544.49. (See Exhibit 26.)

Voucher No. 10. Amount, $9,667.71; suspended, $1,926.36; disallowed, $206.20. Amount allowed should be $9,461.51. (See Exhibit 27.)

Voucher No. 11. Amount, $2,059.45; suspended, $167.59; disallowed, $55.40. Amount allowed should be $2,004.05. (See Exhibit 28.)

Voucher No. 12. Amount. $11,510.89; suspended, $3,896.93; disallowed, $18.58. Amount allowed should be $11,492.31. (See Exhibit 29.)

Voucher No. 13. Amount, $5,804.18; suspended, $1,671.51; disallowed, $106.13. Amount allowed should be $5,698.05. (See Exhibit 30.)

Voucher No. 14. Amount, $1,994.82; suspended, $809.19; disallowed, $12.97. Amount allowed should be $1,981.85. (See Exhibit 31.)

Voucher No. 15. Amount, $180.14; suspended, $14.19; disallowed, $1.10. Amount allowed should be $179.04. (See Exhibit 32.)

Voucher No. 16. Amount, $3,526.62; suspended, $1,440.53; disallowed, $115.01. Amount allowed should be $3,411.61. (See Exhibit 33.)

Voucher No. 17. Amount, $784.40; suspended, $229.26; disallowed, $3.38. Amount allowed should be $781.02. (See Exhibit 34.)

Voucher No. 18. Amount, $3,243.36; suspended, $1,928.74; disallowed, $44.20. Amount allowed should be $3,199.16. (See Exhibit 35.)

Voucher No. 19. Amount claimed to have been paid on this voucher is $10.232.43 to the members of Capt. John Addison's company. The pay roll which should have constituted this voucher has been lost, and the muster roll of the company alone is furnished. For this reason the Paymaster-General reports a suspension of the whole amount. The muster roll indicates a service from April 8 to October 7, 1856, and upon this basis the Paymaster-General makes a computation of the amounts to which the members were entitled, which aggregate $10,860.27, or an excess of $627.74 above the sum in which the State now claims reimbursement. Capt. J. W. Pearson, as appears by the transcript of his account with the State, actually paid this company $10,232.43, and the State paymaster certified to a comparison of the payments with the pay rolls. It is believed that this payment should be admitted as established. (See Exhibit 36.)

Voucher No. 20.—Amount, $4,556.59. This also rests upon a muster roll alone, and in the absence of the pay roll it can not be determined which of the men were paid. A computation based upon the period of service indicated by the muster roll, October 8 to December 15, 1856, establishes the amount proper to have been paid as $4,023.98. The payment of this company by Capt. Pearson to the amount of $4,556.59 is certified to by the State paymaster. The amount as computed by the Paymaster-General should, it is believed, be held to be within the provision of the joint resolution. (See Exhibit 37.)

Voucher 21 and *Voucher* 22, referred to in Abstract A, pertaining to John McNeil's company and S. Sparkman's company, for the amounts, respectively, of $3,303.06 and $2,967.31. Neither muster rolls nor pay rolls are furnished, and there is, therefore, no data of service nor of the membership of the companies upon which to base even an estimate. It can only be said that Capt. Pearson received credit for the payments. But as it is impossible to decide, as is required by the terms of the joint resolution, whether the allowances made on the missing rolls were or were not in excess of the amounts allowed by law to troops regularly in the service of the United States at the time, I do not feel justified in recommending that the amounts as stated be admitted as properly expended. This statement, it is believed, is sufficiently clear to enable Congress to pass upon the question as to whether these two rejected items should be

included in any appropriation made for the reimbursement of the State, in the event of such legislative action being had in the premises.

Voucher 23.—Amount, $809.15. The same remarks apply to this item as appear in consideration of voucher No 20. The pay roll is lost, and a computation based upon the muster roll for the period of service it indicates (September 6 to 30, 1856) shows that if all the members were paid, the amount would have aggregated $1,120.41. The amount claimed for ($809.15), having been promptly certified to by the State paymaster, may properly, it is claimed, be admitted as expended. (See Exhibit 38.)

Vouchers 24, 25, and 26, referring to services in 1849, were eliminated from the case, as has hereinbefore been remarked.

Voucher 26½.—Amount claimed as per abstract, $12,341.49, as payments to field and staff. A computation of the service of officers as shown by the roll filed in the office of the Adjutant-General, and the additions thereto of amounts paid on subvouchers only, aggregate $10,142.09, leaving $2,199.40 unaccounted for. The Paymaster-General in his report recommends allowance of $1,265.08, the suspension of $2,361.23, and the disallowance of $6,515.78. The disallowances are made for the reason that no vouchers or receipts are furnished by the officers, and no evidence of any kind appears as to the individual payments. The suspensions are because of the absence of evidence connecting the persons paid with the service. The suspended payments are as follows: M. Whit Smith, pay as colonel from June 12 to October 30, 1856, $1,075.40. His name is not on the staff roll, nor does there appear any certificate of his service. There was no regimental organization, and this officer would not have been recognized and paid in the service of the United States had the different organizations of militia been mustered therein. The payment of $833 to Edward R. Ives, assistant quartermaster, of $370 to Richard N. Jefferys, quartermaster's clerk, and $85.33 to Perry G. Wall, wagonmaster, are subject to the same remark. In my judgment these suspensions should be made absolute, and not admitted as embracing proper expenditures. It is also my judgment, however, that the amount of $6,512.29, disallowed, may properly be admitted and included in a report of the amount expended by the State; $3.49 of the amounts carried among the disallowances pertained to the suspended accounts, rejected as above. The amount allowed in the view above expressed should be $7,777.37, which is less by $4,564.12 than the sum set forth in the abstract and in Capt. Pearson's account, and less by $2,361.23 than the amounts embraced in the claims pertaining to this voucher as submitted. (See Exhibit 39.)

The aggregate of the allowances reported by the Paymaster-General under Abstract A is $99,620.49; suspensions, $50,862.11; disallowances, $11,977.40. The aggregate of the sums admitted as falling within the purview of the joint resolution, as specified in the consideration of the vouchers pertaining to this abstract, is $154,623.66. Should the amounts expended by Capt. Pearson on the missing vouchers Nos. 21 and 22 be also accredited, the total would be $160,894.03.

Abstract B, subsistence stores, covering alleged expenditures amounting to $23,474.90, having been referred to the Commissary-General for examination (see Exhibit 40), was by him returned May 19, 1882, with a report setting forth the errors, irregularities, etc., found existing in the abstract and vouchers (see Exhibit 41). From the detailed statement accompanying this report it appears the amount of this abstract should have been $23,836.44¼. Of this amount the Commissary-General reports as having been expended properly, with proof submitted of payment to authorized parties, $6,061.31. His report is summarized as follows:

Amount of abstract		$23,836.44¼
Amount of vouchers purchased of company commander	$1,297.72	
Amount of vouchers missing	2,614.79¼	
Amount of vouchers not receipted	11,575.59¼	
Amount of vouchers receipted by administrator	531.89¼	
Amount of vouchers, unauthorized expenditures	1,755,13	
		17,775.13¼
		6,061.31

$1,514.52 of the amount included in unauthorized expenditures is for purchases in 1849.

As the stores purchased from officers, although prohibited by regulations, were acknowledged by the State as properly purchased, it is believed that the sum of $1,297.72 disallowed by the Commissary-General should be included in the established claim of the State. The same may be remarked of the disallowances based upon th absence of letters of administration and powers of attorney, and these, amountin to $531.89¼, are admitted, making an aggregate of $7,890.92 entitled, in my judgment, to acceptance.

For the disallowances because of missing vouchers, $2,614.79¼, and of vouchers not receipted, $11,575.59¼, there is no reasonable ground for including them. For all that appears, the missing vouchers may pertain to expenditures in 1849, while the vouch-

ers not receipted are simply invoices. Such portions of the claim as partake of this character should, it is held, be passed upon by the accounting officers of the Treasury under proper equitable rules provided by legislation in that behalf. (See Exhibit 42.) Abstracts C, D, E, F, H, and I, with supporting vouchers, together with four separate accounts, were referred to the Quartermaster-General of the Army, with similar instructions to those contained in the communication to the Paymaster-General. (See Exhibit 43.)

These abstracts aggregate as follows:

Abstract C, forage	$42,279.52
Abstract D, transportation	19,843.28
Abstract E, camp and garrison equipage	193.81
Abstract F, quartermaster's stores	589.67
Abstract H, contingent for troops	10,332.84
Abstract I, stationery	111.11
Account of J. M. Cooper, services	7.50
Account of J. A. Garrard, services	22.00
Account of Fred Dykes, rent	5.00
Account of P. G. Wall, rent	31.25
Total	73,415.98

Upon these abstracts and accounts the Quartermaster-General reported, under date of April 20, 1882:

That the expenditures which seem to have been properly made are supported by vouchers issued by officers of the Florida Volunteers and by Jesse Carter, a special agent of the State, which I think may be accepted as reasonable charges, and are in amount as follows:

Abstract C	$34,669.74
Abstract D	17,247.39
Abstract E	98.59
Abstract F	395.16
Abstract H	9,015.81
Abstract I	10.10
Account of J. M. Cooper	7.50
Total	61,444.29

(See Exhibit 44.)

This is a reduction from the amount as claimed of $11,971.69, arising from the absence of subvouchers, the absence of signatures acknowledging receipts, and errors of computation.

The Quartermaster-General reports that, from such comparisons as the records of his office afford opportunity to make, the prices for forage, transportation, etc., paid by the State appear to have been reasonable.

The amount claimed to have been expended for "forage," Abstract C, is $42,279.52, of which the Quartermaster-General is of opinion that $34,669.74 was properly expended, and that payment thereof is shown to have been made.

The difference between these two amounts, $7,609.78, arises from absence of vouchers in support of alleged payments, absence of signatures in acknowledgment of receipt, and error in vouchers. These vouchers appear to have been paid by Jesse Carter, special agent for the State, of whose accounts, as accepted by the State, no transcript is furnished. It will be observed that upon Abstract D, transportation, the Quartermaster-General finds payments supported by sufficient evidence to the amount of $17,247.39, a less sum by $2,959.89 than that submitted, while in the statement of Capt. J. W. Pearson's account, hereinbefore referred to, and by whom all the subvouchers appear to have been paid, he claimed credit for payments of claims for transportation of $17,546.95. Under this head there are subvouchers missing to the extent of $2,060.14, and subvouchers amounting to $535.75, not properly receipted.

Of the payments claimed to have been made for camp and garrison equipage vouchers for but $98.59 are furnished, the balance, $95.22, not being sustained.

Under Abstract F, quartermaster's stores, there is a disallowance of $55.56, caused by a missing voucher, and $138.95 by a nonreceipted voucher, leaving, as approved by the Quartermaster-General, the sum of $395.16.

For "contingencies" Abstract H, there is admitted the sum of $9,015.81, subvouchers amounting to $716.78 being missing, and others for $600.25 not being receipted.

For "stationery," Abstract I, proof is furnished for the payment of but $10.10, no voucher appearing in support of an alleged payment of $44.10, and vouchers amounting to $56.91 not being receipted.

The accounts of Jacob A. Garrard, $22, Fred. Dykes, $5, and P. G. Wall, $31.25, are not receipted and are not approved by the Quartermaster-General.

The statement accompanying the report of the Quartermaster-General, setting forth the errors, irregularities, etc., commented upon, is appended to this report. (See Exhibit 45, 46, and 47.)

Abstract G, ordnance, for $808.43, was referred to the Chief of Ordnance for examination (see Exhibit 48), and by him returned with a statement setting forth the amounts allowed and disallowed (see Exhibit 49). This statement embraces accounts amounting to $623.43, no voucher for an alleged payment of $235 to Post & Mel having been filed. Of this amount the Chief of Ordnance reports an allowance of $507.80. The item not considered is found filed with Abstract B as part of an invoice simply made out in the name of the firm indicated. It can not be accepted as evidence of a money payment. The same may be remarked of another account in the name of the said firm upon which the Chief of Ordnance reports an allowance of $156.50, and of an invoice of stores amounting to $205 in the name of E. G. Rogers & Co., upon which an allowance is made by the Chief of Ordnance of $163.40. Neither of these allowances should, it appears to me, be included in a report based upon the terms of the joint resolution, and they are therefore deducted from the total sum reported by the Chief of Ordnance, leaving, as properly established under Abstract G, $187.90. Abstract K, pertaining to medical attendance and medicines, was referred to the Surgeon-General for examination. (See Exhibit 50.)

This abstract embraced accounts amounting to $1,357.83, less by $5 than the sum it was submitted to sustain. The Surgeon-General recommends the allowance of $501,32. His reasons for failing to recommend the allowance of the remainder of the sum are set forth in his report, which is appended hereto. (See Exhibit 51.) Accounts are not certified nor receipted, and in one account the acknowledgment is simply of the receipt of a certificate of compensation.

In the examination of the State's claim and the preparation of the report full consideration has been given to the facts as to the loss of vouchers belonging to the State during the war of the rebellion, and amounts admitted as having been expended, even when receipts were missing, if evidence could be found tending to show that the payments were really made. Such claims as could be sustained by reference to the audited and accepted account of Capt. J. W. Pearson have been embraced in the conclusions of this report, but beyond this there has seemed to be no legitimate room for widening the field of inquiry and inferentially to admit payments to have been regularly made.

The amounts to be reported to Congress in the view taken by me of the provisions of the joint resolution of March 3, 1881, are as follows:

Abstract A	$154,623.66
Abstract B	7,890.92
Abstract C	34,669.74
Abstract D	17,247.39
Abstract E	98.59
Abstract F	395.16
Abstract G	187.90
Abstract H	9,015.81
Abstract I	10.10
Abstract K	501.32
Account of J. M. Cooper	7.50
Total	224,648.09

an amount less by $54,985.58 than that of the claim as submitted by the State; $11,316.91 of this is for payment of troops for service in 1849, and $6,270.37 for the payment of two companies in cases where both muster and pay rolls are missing and referred to specifically in this report in consideration of Abstract A. The reasons for the failure to include the remainder have been hereinbefore set forth.

Very respectfully, your obedient servant,

THOMAS F. BARR,
Judge-Advocate, U. S. Army.

The SECRETARY OF WAR.

EXHIBIT No. 1.

[Indorsement on letter (No. 199 S.) of Hon. I. I. Stevens, dated May 17, 1858, relative to the number of regular and volunteer troops employed in Florida in 1855, 1856, and 1857, and the number of Indians engaged in hostilities, etc.]

1st. The average number of regular troops employed in the late Indian difficulties in Florida was, in 1855, 840; in the first nine months of 1856, 866; from October 1, 1856, to September 1, 1857, 1,755; and in the remaining four months of 1857, 339.

Of volunteers there were employed in 1855, *none;* in 1856, an average number of 321; in 1857, an average number of 1,164; and in addition to these, who were called into service by the Federal authorities, the State authorities of Florida called out for short terms of service, in the year 1855, certain other companies of volunteers, whose services have not as yet been recognized by Congress.

2d. The number of Indian warriors engaged in these hostilities is, from the best information contained in the records of this office, supposed to have fallen short of 100. The Indian Office may possibly be more correctly informed on this head.

3d. According to the calculations of an officer of the Corps of Topographical Engineers (Lieut. G. K. Warren), the military operations during the period named extended over an area of 27,400 square miles, being all that portion of Florida lying south of the twenty-ninth parallel of north latitude.

Respectfully submitted.

S. COOPER,
Adjutant-General.

ADJUTANT-GENERAL'S OFFICE, *May* 20, 1858.

EXHIBIT No. 2.

HEADQUARTERS TROOPS ON THE CALOOSAHATCHEE,
Fort Myers, December 24, 1855.

SIR: In my letter of the 21st instant I informed you of the attack on Lieut. Hartsuff's party by the Indians. I now proceed to give a more detailed statement of the affair and of the operations of Lieut. Hartsuff from the time of his leaving this post until the attack on his camp.

Lieut. Hartsuff was ordered, with two noncommissioned officers and eight privates (six mounted and two on foot), with two six-mule teams, to proceed to and reconnoiter the Big Cypress swamp and its neighborhood, his whole force, including teamsters, being ten men, a number deemed by me sufficient, he having during the last winter repeatedly passed unmolested alone and with an escort of one man over the very same grounds, and the Indians never subsequently having given the slightest evidence of a hostile disposition. Accordingly, on the morning of the 9th instant he left this post, and, as I learn from the reports of the men of his party who escaped (copies of which I send you), he encamped on the second day's march 30 miles from his post, and with a sergeant and two privates went on a reconnaissance. He saw while out an Indian man and boy driving hogs, who endeavored to avoid him, and who showed no disposition to give him information. He, the next morning, reached Fort Simon Drumm, and found the fort burned. He then proceeded to Fort Shackelford, and found it burned. He remained there two days, engaged in visiting the neighboring villages and exploring the country, but found no Indians and no evidence of their having been there for months. He then returned to Fort Simon Drumm, and marched from thence towards Billy's town, one day's march south. He encamped about 3 miles north of Billy's town, in a fine island covered with dwarf palmettoes, and was employed two days (the 18th and 19th) in examining the country, during which time he visited Billy's town, Assenwat's town, and several other villages, and saw no Indians and not the slightest evidence that any had during the summer been there. On the contrary, the paths, which were fresh and traveled last winter are now quite overgrown. He thus came to the conclusion that the Indians had left the country, with the exception of a few stragglers, and had gone probably to the seaboard. He then ordered his party to prepare for an early start for this post in the morning (Thursday, the 20th instant). Accordingly the men had at daybreak got their breakfasts, struck their tents, and partly saddled and harnessed their horses and teams (Lieut. Hartsuff himself not yet having breakfasted nor had his tent struck), and were employed in preparing for their march, when they were attacked by a party of Indians, varying, in the opinions of the different men, from 25 to 40. The Indians being distant about 15 to 20 yards, and behind trees, and the soldiers in the open prairie, there is great obscurity as to the conduct of part of these men, which requires a closer investigation than I can now give it, but the probability is that the most of them fell

at the first fire. Lieut. Hartsuff, on hearing the whoop, ran immediately from his tent to the wagons, passing a soldier (Foster or Hook) with his leg broken, and found at the wagon three privates, Hanna, of Company K, Baker, of Company G, and Murtagh, of Company K. He was wounded in the arm probably in passing from his tent to the wagon. Being from his wound unable to load, he directed one of the men to load for him, and he fired two or three times with a musket and about the same number with a rifle. He was, while so engaged, and most nobly and gallantly encouraging his men, again struck in the breast, the ball striking his pistol hilt and stunning him. Whether wounded a third time seems somewhat doubtful, but he probably was, in the arm, when he told the men (they all being wounded and Murtagh killed) they could do no more, and directed them to take care of themselves, and he himself retreated to the hammock, since which he has not been seen or heard of and it is to be feared that he has fallen. He was nobly sustained in his short and unequal conflict by Privates William Baker, of Company G, and John Hanna, of Company K, and by Private Patrick Murtagh, of Company K, who fell. Had he been equally supported by the rest of his command, the result might have been very different. Private Foster, of E, or Hook, of G, fell early with his thigh broken. Hurst, of E, having fired once, hid himself in a hammock. Sergeant Holland, of K, and Corporal Williams, of G, abandoned the party apparently without an attempt at defense, and of the rest nothing is known.

Five have escaped and arrived at this post, viz, Sergt. Holland, Corpl. Williams, and Privates Hanna, Baker, and Houst. Of the others, with their brave commander, nothing has been heard, and it is to be feared all have fallen.

Lieut. Hartsuff was an officer of great promise, intelligent, amiable, and energetic. He was beloved as a man and respected as a soldier, and in him the service has suffered a great loss.

I am, sir, very respectfully, your obedient servant,

HARVEY BROWN,
Brevet Colonel, Commanding.

Lieut. T. M. VINCENT,
Acting Assistant Adjutant-General.

EXHIBIT No. 3.

HEADQUARTERS TROOPS ON CALOOSAHATCHEE,
Fort Myers, December 27, 1855.

SIR: I have the very great satisfaction of reporting the safety of Lieut. Hartsuff, who arrived here, under escort of Capt. Allen's company, about 2 o'clock yesterday afternoon, and, though severely wounded, in much better condition than could have been hoped for. He has two ugly wounds, neither of which the doctor considers dangerous. The one is a flesh wound through the arm, the other in the left breast. The surgeon at Fort Simon Drumm probed to the extent of 2½ inches without finding the ball, and since here the doctor has not deemed it advisable to make further search. He is comfortable and doing well. His statement of the affair as well as of his previous proceedings are strongly corroborative of those of Privates Hanna and Baker. Of their bravery and coolness he speaks in the highest terms. The former, besides a very severe wound in the belly, had a ball through his hat, two through his coat, and three through his pantaloons; the other was wonderfully preserved by the ball striking his knife and bending it up. Lieut. Hartsuff himself escaped in a similar manner, a ball having struck the cylinder of his pistol, very much stunning him and giving him intense pain, but otherwise not serious.

Lieut. Hartsuff says he considered the burning of the forts as a cause for additional care and vigilance, but not for the abandonment of the duty on which he was sent; that he was confirmed in his opinion by the abandonment of the country, he not finding the slighest trace of Indians, or of their having been at any place he visited during the past season.

On the morning of the fight, when he first heard the whoop and the firing, he had just arisen. He secured his revolver, and, looking through the opening of the door of his tent, distinctly saw the Indians behind the trees, their attention directed to the wagons. Three or four of them were within as many yards of him, the others at various distances, scattered through the little pine island, in front of and distant twelve to fifteen paces from the wagons, their flank to him. He fired twice at the Indians, and both times with effect, the Indians being almost within reach of his arm. He then, hearing the firing at the wagons, ran there and joined his command. He there found Privates Murtagh laying on the ground badly wounded, and Hanna and Baker standing behind the wagons and engaged with the enemy. He left Horth near his tent, and Foster between the tent and wagon, on the ground, both severely wounded. All

this was within the space of 5 minutes' time. Murtagh told him that his musket was loaded. He took and fired it, and then Baker loading for him, he fired several times, during which he received a wound in the arm, which he thought had broken it, and afterwards another, which gave him intense pain and great faintness, and which at the time he thought mortal. He then told the two surviving men that he could do nothing more and they must take care of themselves, and he endeavored to get to a hammock distant about 20 yards, and fell on its edge, Hanna and Baker passing him, and the latter telling him that he would try to get to Fort Myers and carry the news. All this was within fifteen or twenty minutes of the first fire. He then endeavored to get on, but in crossing a lily pond close by he fell and was unable to rise again, the water covering all but his head. While there he heard an Indian repeatedly cry, "Come out; come out!" He remained there about two hours, when the agony of his wound was so intense that he contrived to get up and walk towards the road, some two hundred yards, where he fell, from exhaustion, among the dwarf palmettoes. He remained there, unable to move, until night, when he moved half a mile. He then fell again exhausted, and so remained, unable to move, for two days and nights, and until the evening of Saturday, when he succeeded in getting up (he having had no food or water, and suffering from thirst and but little from hunger), and commenced his march towards Fort Simon Drumm, being able to go about half a mile at a time. He thus proceeded till sunrise, and then laid by completely exhausted. He here, however, got water. He remained concealed in this place until the afternoon (Sunday), when he resumed his march, and reached Fort Simon Drumm about 8 o'clock p. m., and there found Major Arnold's command.

The following is the result of the battle, so far as known: One first lieutenant and three privates wounded; four privates killed, and one sergeant, one corporal, and one private unhurt; total, 11—4 killed, 4 wounded, and 3 escaped; total, 11.

Lieut. Hartsuff reports the country as being very wet towards the Everglades, for many miles covered with water.

The perfect coolness and bravery of Lieut. Hartsuff in these most trying circumstances, as warmly attested by Hanna and Baker, both before and since his return, and the fortitude and energy exhibited in his escape, merit the highest praise, and I hope will receive the notice of the War Department; and I also most respectfully recommend to its favorable consideration Privates John Hanna, of Company K, and William Baker, of Company G, Second Artillery, for their distinguished bravery.

I am, sir, very respectfully, your obedient servant,

HARVEY BROWN,
Brevet Colonel, Commanding.

Lieut. VINCENT, *A. A. A. G.*

HEADQUARTERS TROOPS IN FLORIDA,
Fort Brooke, January 2, 1855.

A true copy.

T. M. VINCENT,
First Lieutenant, Second Artillery, Acting Assistant Adjutant-General.

EXHIBIT NO. 4.

Governor's message.

EXECUTIVE DEPARTMENT,
Tallahassee, November 24, 1856.

Fellow-citizens of the senate and house of representatives:

* * * * * * *

INDIAN HOSTILITIES.

On the 12th day of January, 1853, the general assembly passed an act entitled "An act to provide for the final removal of the Indians from this State, and for other purposes."

The first section of that act makes it unlawful for an Indian to remain in this State.

The second section required the governor to raise a brigade, composed of one regiment of mounted volunteers and one regiment of infantry, of not more than one thousand men each.

The fifth section provides that the governor shall tender said brigade to the Federal Government, for the removal of the Indians.

The sixth section makes it the duty of the governor, in the event of the Federal Government's refusing to accept the services of said brigade, forthwith "to secure the frontier settlers" and employ the brigade in capturing the Indians, etc.

The seventh section appropriates $500,000 for the expenses of the war, and authorizes the governor to borrow the money at 6 per cent interest.

The ninth section authorizes the comptroller to audit the accounts and issue warrants upon the treasury for their payment.

The eleventh section provides that when the Indians commence actual hostilities the governor shall carry this act into execution.

In obedience to the requirement of this act, I attempted on my inauguration to raise the brigade. The mounted regiment was readily procured and organized, but the infantry regiment I found it impracticable to recruit. In December last the contingency occurred upon the happening of which the executive was required to carry the law into execution. The Indians commenced actual hostilities by attacking a detachment of United States troops commanded by Lieut. Hartsuff. This attack was entirely unexpected, and found our frontier population in an unprotected condition. The officer in command of the United States forces was not able to give promptly the protection required for such a line of frontier, and the citizens naturally and properly called upon the State government to protect them in the enjoyment of their lives and property. Before, however, the decision of the executive could be obtained many men from the counties of Manatee, Hillsboro, and Hernando, moved by patriotic impulses, had organized themselves into companies, elected officers, armed, equipped and rationed themselves, and had marched to the frontier. These companies I promptly recognized as in the service of the State, and instructed them to give efficient protection to the frontier population, and prevent, if possible, the breaking up and abandonment of the settlements. I immediately tendered to the Secretary of War such portion of the brigade as had been raised, and offered to raise the balance at the earliest practicable period. He declined, however, to receive more than five companies, three of mounted men and two of infantry—the latter of which I could only procure to the extent of one detachment.

The three mounted companies of volunteers, numbering, rank and file, about 260 men, were all the force of that description that I was advised the Government designed using for frontier protection. This, to my mind, was quite insufficient for the reasonable protection of the country, to say nothing of furnishing pursuing parties when the Indians should make their appearance in the settlements. I therefore determined to retain in the service of the State the companies of Capts. F. M. Durrance, L. G. Lesley, William H. Kendrick, and Abner Johnson, and afterwards added a detachment under Lieut. John Addison, making, rank and file, about 400 men. These troops have been employed partly on the frontier and partly in the Indian country. Detachments have on three several occasions overtaken and fought the enemy, once recovering a large amount of property (of which they had robbed one of our best citizens), and killing, as was supposed, from 4 to 7 Indians. This was effected, under Lieut. John Addison, without loss. The other two engagements were by small detachments from the company of Capts. F. M. Durrance, L. G. Lesley, and W. B. Hooker, and were the most gallantly contested actions that have probably ever occurred in Florida. The Indians, having the advantage in point of numbers, appeared determined to destroy their pursuers, and such was the desperation with which they fought that one contest was decided by a resort to pocket-knives, in which an Indian was killed by having his throat cut. In these three engagements it is supposed that over 20 Indians were killed, and a number wounded; and so thoroughly were they chastised that, although more than five months have elapsed, they have not, as I have been advised, ventured an engagement or even an attack upon the frontiers. In these last two engagements we lost in killed Lieuts. Carleton and Widdon, and William Parker, some of the most gallant spirits of our little army; and, while all did their duty nobly, and are entitled to the gratitude of the whole State, the memories of those who perished should be embalmed in every heart. For a more detailed account of these gallant actions, I respectfully refer to the report of Capt. F. M. Durrance, herewith communicated.

When the Indian outbreak occurred, the money markets of the world were in such a condition as to forbid even the hope of negotiating a dollar upon the terms to which I was limited by the act of January 12, 1853. The impossibility of procuring subsistence and forage, except to a limited extent, forbade my calling into the service of the State such a force as would have protected the frontier and promptly captured or humbled the enemy. Under these circumstances I was compelled to limit the force to four companies and a detachment. These I provided for temporarily by using the contingent fund, and borrowing the small balance remaining uninvested of the school and seminary funds. Having made this temporary provision, I proceeded to Washington City, with the hope of inducing the War Department to accept the services of a brigade of volunteers, or, at all events, receive the companies retained by the State. I did not, however, succeed in either, but received assurance of the de-

termination of the Government to remove the Indians by force, and to use such an amount of force for that purpose as could be profitably employed. The correspondence upon this point with the War Department is herewith communicated for the information of the general assembly.

That the Secretary of War did honestly determine to remove the Indians I entertain no doubt, but that he made a mistake in reference to the kind and extent of force necessary for that purpose is now manifest. The purpose of removal is, however, prominently preserved, and recently a general officer of great skill and success in such warfare has been ordered to the command, with increased forces. To what extent he may estimate for a mounted volunteer force I am not yet advised. That he will find the war interminable without a mounted force, there is too much reason to fear. I have, however, great confidence in his capacity for such a service.

Having failed to effect what I desired at Washington, and having determined to continue in the service of the State such a mounted force as was deemed sufficient to give reasonable protection to the frontier, I found myself compelled to negotiate for money on terms not authorized by the statute. I negotiated a loan in the city of Charleston for $30,000, at an interest of 7 per cent per annum, to be returned at some early day after the adjournment of the present session of the general assembly. This fund has been reserved for the purchase of subsistence and forage, and for the payment of incidental expenses, and will at an early day be exhausted. I respectfully invite the general assembly to appoint a committee to examine and report upon this loan, and the disbursements of the funds made by my special orders.

During my absence on my visit to Washington City, a very great excitement occurred in Levy County, which spread rapidly into the counties of Madison, Columbia, and Alachua. The report of Indian trails in great number, with an attack upon a citizen and another upon a fort or stockade, with a threatened depopulation of the section of country, induced me to send Capt. A. J. T. Wright, with a select detachment, to examine carefully and report the facts. His report is herewith communicated. It will be seen that his examination confirmed the impression, so generally prevailing, that there were Indians in considerable number in that section, and called for two mounted companies to capture or expel them. The balance of his own company, with the company of Capt. Stewart, were promptly ordered to join him. On the 13th of June the command of that special service was assigned to Col. M. Whit Smith, with authority to recruit four infantry companies to aid in scouring thoroughly the Gulf and Suwannee hammocks, and other suspected places. This assignment of command was connected with the duties of recruiting officer, quartermaster, and commissary, to be covered by a major's pay, as will be seen by my letter of instructions of that date, a copy of which is herewith communicated.

The infantry companies ordered to be recruited were deemed necessary for temporary service in the Gulf hammock and adjacent places, and were then desired for Col. Munroe, commanding United States forces in Florida, to aid in filling a requisition then daily expected, of which advices from the War Department had been received. A portion of these were recruited, but it was found difficult to raise full companies, and as the commanding officer required such, they were discharged at the completion of the special service for which they were enlisted. The whole special service terminated in September, and the companies were generally discharged on the 30th day of that month.

At the expiration of six months from the respective dates of mustering the three mounted companies and one infantry detachment of volunteers into the service of the United States, and the four companies and one detachment of mounted volunteers into the service of the State, they were all regularly mustered out. The second requisition from Col. Munroe for three companies, to supply the places of those mustered out, was filled by companies organized and commanded by Capts. S. L. Sparkman, L. G. Lesley, and Robert Bullock. The companies mustered out of the service of the State were promptly supplied by others commanded by Capts. F. M. Durrance, W. H. Kendrick, Abner Johnson, and E. T. Kendrick. The detachment commanded by Lieut. Addison was ordered to be substituted by a full company, the organization of which has not yet been reported to me.

The great distance at which I was located from the seat of war, the necessity for economizing the limited means at my disposal, and the difficulty of communicating my instructions, with the mails virtually suspended for a portion of the time, made it, in my judgment, proper to appoint a special and confidential agent, near the seat of war, to discharge all such duties, whether civil or military, as might be devolved upon him by executive authority. I therefore, on the 4th of February last, appointed as such agent Gen. Jesse Carter, of Tampa, who has since that date been laboriously engaged in duties connected with the present Indian disturbances. His reports, letters, and abstracts are on file, copies of which will be furnished to the general assembly, if desired. A copy of the letter of his appointment and such general instructions as have been issued to him in relation to the service are herewith communicated. He is now, in company with a portion of the State troops, on an extended expedition into

the Indian country, a report of which and its results I hope to be able to communicate to the general assembly at an early day.

Should the United States call for no additional mounted volunteer force for the present campaign, and make no other provision for cavalry, it will, in my judgment, be unsafe to discharge any part of the mounted force now employed by the State.

It will be seen by a correspondence, herewith communicated, between the Post-Office and War Departments, and one of our Senators, that the provision for mounted force on the part of the Government was so limited that the mails between Palatka and Tampa were virtually suspended for the want of protection. On being advised of this state of things I ordered General Carter, the State's special agent, to confer with the colonel in command on this subject, and if he was unable to give the necessary protection, to furnish it from the forces in the service of the State. My order in reference to the matter is herewith communicated.

No provision having been made by the Government of the United States to pay or subsist our State forces, it became the imperative duty of the State government to do so. The amount, which will be due on the 20th of February next, should no change in our present force be made, will be (including pay, subsistence, forage, transportation, incidental expenses, and the loan negotiated in Charleston), according to my estimate, about $225,000, and for each six months' service beyond that period, should the necessity unfortunately continue to exist, a provision of $110,000 should be made.

With these explanations and suggestions, this embarrassing question is submitted to the general assembly, with the assurance that I shall cheerfully and heartily coöperate with you in any proper measure which your wisdom may suggest for protecting the credit of the State, discharging her obligations, and removing the Indians from within her borders.

* * * * * * *

I am your fellow-citizen,

JAMES E. BROOME.

EXHIBIT NO. 5.

[Washington and New Orleans Telegraph Line Office, Washington, corner Seventh and D streets. Dated Tampa, Fla., 22d December, via Savana, m. Received, Washington, 2d instant, January, o'clock 6:35 min. p. m.]

To Hon. JEFFERSON DAVIS,
Secretary of War:

The Seminoles attacked the advanced party of troops on the Big Cypress on the morning of 20th. Lieut. Hartsuff and five men killed or missing. A peaceful removal is impossible.

J. C. CASEY.

EXHIBIT NO. 6.

WAR DEPARTMENT,
Washington, January 3, 1855

SIR: Your note by telegraph, of the 23d ultimo, was received yesterday. The occurrence of actual hostilities, commenced by the Seminole Indians, suspends all the instructions heretofore given you with a view to effect the peaceable removal of those Indians. It is presumed that Col. Monroe has dispached by mail to this Department a report in relation to Indian affairs in Florida, and on its receipt further instructions will be given for your guidance.

Very respectfully, your obedient servant,

JEFFERSON DAVIS,
Secretary of War.

Capt. JOHN C. CASEY,
Tampa Bay, Florida.

EXHIBIT NO. 7.

HEADQUARTERS TROOPS IN FLORIDA,
Fort Brooke, January 20, 1856.

SIR: By virtue of authority from the War Department, dated Adjutant-General's Office, Washington, January 7, 1856, and received by me on the 19th instant (of which a copy is herewith), I have now the honor to call on your excellency for the follow-

ing volunteer force, to provide for the protection of the frontier and to coöperate with the United States troops in enforcing the removal of the Indians remaining in the State:

One company of mounted volunteers, to be mustered into service, say, in the neighborhood of Fort Gatlin.

One company of mounted volunteers, to be mustered into service, say, in the neighborhood of Heecheepoksasa, and one company of mounted volunteers, to be mustered into service, say, in the neighborhood of Fort Meade.

Two companies of foot, to be composed exclusively of good woodsmen, familiar with the habits of Indians, to be employed as hunters and trailers in the swamps and morasses, where horsemen can not go, and where alone Indians are to be found and overcome.

As each mounted company will act separately, and the foot companies are to be associated with the regular troops in their operations, no field or staff officers will be required or received with them.

"Companies serving in the peninsula of Florida and at Key West are authorized to be carried up to the maximum legal standard of seventy-four privates." (See Special Order No. 70, dated War Department, Adjutant-General's Office, Washington, April 18, 1855, copy herewith, and second section of act of June 17, 1850, entitled "An act to increase the rank and file of the Army," etc.) The volunteer companies now called for will therefore each be composed as follows, viz: One captain, one first lieutenant, one second lieutenant, four sergeants, four corporals, two musicians, and seventy-four privates.

Gen. Jesse Carter, of this county, has consented to proceed immediately to the capital for the purpose of conferring with your excellency on the details of this business, as my duties here will not allow me to leave.

Most respectfully, your obedient servant,

JOHN MUNROE,
Maj., 2d Regt. Arty., Bvt. Col., Comdg. Troops in Peninsula of Florida.

To his excellency JAMES E. BROOME,
Governor of Florida, Tallahassee.

HEADQUARTERS TROOPS IN FLORIDA,
Fort Brooke, January 23, 1856.

A true copy.

J. M. VINCENT,
First Lieutenant, Second Artillery, Actg. Asst. Adjt. Gen.

EXHIBIT NO. 8.

HEADQUARTERS TROOPS IN FLORIDA,
Fort Brooke, January 23, 1856.

COLONEL: I have the honor to transmit you herewith a copy of a requisition made by me on the governor of Florida, based on the instructions of the Secretary of War, as communicated in your letter of the 7th instant. Doubting whether foot troops could be readily raised, if at all, of a suitable character, my call has been for the maximum number of mounted men authorized, believing it to be the only course which would keep the mass of the frontier settlers at their homes, which they would otherwise abandon, thereby subjecting themselves to much suffering.

From the absolute want of officers under my control, it will be necessary that instructions be given from the War Department for an officer to repair to the St. Johns River, say in the vicinity of Fort Gatlin, to muster into service the company which it is proposed should rendezvous there, and that the same, or some other competent officer, be designated to perform the duties of quartermaster and commissary on that side the peninsula, and directed to make requisitions for transportation, forage, subsistence, etc., direct and without loss of time. The length of time required for communication from this post with troops serving in that vicinity will prevent my giving direct the timely instructions requisite for the prompt performance of the necessary duties. In addition a staff or other officer will be required to muster in the volunteers on this side the peninsula, and exercise a further supervision over their duties, accountability, and supplies; also, an officer to act in the quartermaster's and subsistence department.

During a recent visit to Fort Myers (consulting with Col. Brown), I directed a picket work of a very temporary character to be established at Fort Simon Drum, this to serve as a depot for ulterior operations, Fort Deynaud being the principal depot. Two companies to be detached for the erection of this work and for scouting

through the southern and southeasterly portion of the Big Cypress. Forts Centre and Thompson are reoccupied; boats are kept at the former place for service on Lake Okechobee and scouting parties constantly in motion from both posts.

There has been a good deal of sickness among the troops during the past summer and autumn, and although not of a very aggravated character, has influenced unfavorably the physical condition of the whole command. At Fort Deynaud, since the return of the troops to that post, about the middle of December, the sick list has been very heavy, as reported by the commanding officer and surgeon of the post. From the amount of rain which has fallen lately there is a large quantity of surface water over the entire country where this time last winter it was completely dry.

I am, very respectfully, your obedient servant,

JOHN MUNROE,
Major 2d Regt. Art., Bvt. Col., Commanding.

Col. S. COOPER,
Adjutant-General, Washington, D.C.

EXHIBIT No. 9.

HEADQUARTERS DEPARTMENT OF FLORIDA,
Fort Brooke, January 12, 1856.

SIR: I received your letter of the 8th ultimo on the 31st instant, on my return from a visit to Fort Myers. General Carter has, I presume, kept you daily advised of the correct operations of the troops. With the view you express in relation to active operations being continued during the summer months I concur, but there are occasionally practical difficulties which interpose to check our movements. The character of the country as you approach the Big Cypress from the north becomes so saturated with water and boggy that nothing can be done in that direction during the rainy season. It is proposed to keep up during the summer months expeditions by boats penetrating from the coast to the interior. The number of Indians who have shown themselves in this section of the country since the outbreak, although not numerous, have presented themselves at so many different points as to keep the entire frontier in a state of alarm, as you are fully informed. Owing to a sparse population and the extensive cover the country offers, these Indians have succeeded in avoiding all our parties except in a single instance, although much perseverance has been shown and fatigue endured in scouting after them.

The State Volunteers, under Capts. Kendrick and Johnson and Lieut. Kendrick, performed their thirty days' service south of the Caloosahatchee and in the Everglades with much credit to themselves, and they have been spoken of by the United States officers with whom they were associated on their tour in the most favorable manner.

The company of Capt. Jernigan has, I am sorry to say, been the subject of much serious complaint from the citizens in the vicinity of his posts, particularly the detachment stationed at "Honstouns," near Enterprise. They charge, and I have no doubt with truth, that the public duties of the company, particularly of that part of it, have been grossly neglected, and the individual conduct of many of the men as being extremely improper. I transmit herewith a copy of my order in reference to this subject, which will explain my action in the matter. My letter to you of the 17th ultimo, asking for additional foot volunteers, states the number and description of troops which has been advisable to call for. Gen. Carter left here on the 9th instant, Capt. Sparkman in company, having with them detachments of State and United States volunteers, and proposing to make a scout of ten or twelve days in Hernando County, where Indians have recently been seen. I had prepared a copy of a map of South Florida, which is accompanied by a memorandum of the positions of troops, to be transmitted to you through Gen. Jesse Carter. It adds somewhat to our knowledge of the topography of that section.

I am, sir, very respectfully, your obedient servant,

JOHN MUNROE,
Major Second Artillery and Brevet Colonel, Commanding.

His excellency JAMES E. BROOME,
Governor of Florida.

EXHIBIT No. 10.

Florida troops alleged to have been employed in State service in 1855–'56, with organization record as shown by rolls filed in office of the Adjutant-General of the Army.

Voucher.	Company.	Period of State service shown by rolls filed in A. G. O. prior to year 1861.		Period of time paid for by State on claims presented.		Remarks.
		When enrolled or mustered in.	When mustered out.	From—	To—	
1	Wm. B. Hooker	Jan. 3,'56	Feb. 21,'56	Jan 3,'56	Feb. 21,'55	Mustered into United States service Feb. 21, 1856. Date of enrollment on United States roll is Feb. 18, 1856.
2	Frank M. Durrance	Dec. 29,'55	Aug. 22,'56	Feb. 21,'56	Aug. 22,'56	Mustered into United States service Dec. 22, 1856.
3	Frank M. Durrance.	Aug. 22,'56	Dec. 21,'56	Aug. 22,'56	Dec. 21,'56	Do.
4	Wm. H. Kendrick	Jan. 1,'56	Aug. 28,'56	Feb. 26,'56	Aug. 28,'56	Mustered into United States service Dec. 6, 1856.
5	Wm. H. Kendrick	Aug. 28,'56	Dec. 6,'56	Aug. 28,'56	Dec. 6,'56	Do.
6	Abner D. Johnston	Dec. 31,'55	Dec. 20,'56	Feb. 26,'56	Sept. 2,'56	Mustered into United States service Dec. 20, 1856.
7	Abner D. Johnston	Dec. 31,'55	Dec. 20,'56	Sept. 2,'56	Dec. 20,'56	Do.
8	Leroy G. Lesley	Jan. 3,'56	Aug. 20,'56	Mar. 12,'56	Aug. 20,'56	Mustered into United States service Aug. 20, 1856.
9	A. J. T. Wright	Apr. 28,'56	May 17,'56	Apr. 28,'56	May 17,'56	Not mustered into United States service. * With Whitsmith's command.
10	A. J. T. Wright	May 18,'56	Sept. 30,'56	May 18,'56	Aug. 1,'56	Do.
11	John McNeill	May 15,'56	July 12,'56	May 15,'56	Aug. 12,'56	Mustered into United States service Dec. 26, 1856.
12	Asa A. Stewart	May 18,'56	Sept. 30,'56	May 18,'56	Sept. 30,'66	With Whitsmith's command. Was mustered into United States service July 27, 1857.
13	Robert Youngblood.	May 18,'56	Sept. 30,'56	May 18,'56	Sept. 30,'56	(*)
14	Enoch Daniel	May 30,'56	July 20,'56	May 30,'56	July 20,'56	With Whitsmith's command.
15	W. B. Hardee	June 1,'56	June 29,'56	June 1,'56	June 29,'56	* Called Watson's detachment.
16	Alex. Bell	June 24,'56	Sept. 30,'56	June 24,'56	Sept. 30,'56	* With Whitsmith's command.
17	Thos. Hughy	Aug. 18,'56	Sept. 30,'56	Aug. 18,'56	Sept. 30,'56	Do.
18	Edw'd T. Kendrick	Aug. 23,'56	Jan. 14,'56	Oct. 23,'56	Jan. 14,'57	Mustered into United States service Jan. 14, 1857.
19	John Addison	Jan. 16,'56	Oct. 7,'56	Apr. 8,'56	Oct. 7,'56	(*)
20	John Parker	Oct. 7,'56	Dec. 17,'56	Oct. 7,'56	Dec. 15,'56	(*)
21	John McNeill	Oct. 13,'56	Dec. 25,'56	Not stated on abstract.		Mustered into United States service Dec. 21, 1856.
22	S. L. Sparkman	Dec. 31,'55	Feb. 18,'56	.....do.....		Mustered into United service Feb. 18, 1856.
23	R. B. Sullivan	Sept. 6,'56	Sept. 30,'56	.....do.....		(*)
24	Hansford D. Dyches	No roll	No roll	.....do.....		(*)
25	Aaron Jernigan	No roll	No roll	.....do.....		Was in United States service by muster from Mch. 10 to Sept. 10, 1856.
26	James O. Devall	No roll	No roll	.....do.....		(*)
26½	Field and staff	Feb. 1,'56	Feb. 22,'56	.....do.....		See copies of (two) staff rolls, herewith.

EXHIBIT No. 11.

WAR DEPARTMENT,
Washington City, March 24, 1882.

SIR: I have the honor to request to be furnished with a transcript, under seal of the State, of the financial statement of Capt. J. W. Pearson, disbursing agent of the State of Florida, under date of November 30, 1859, exhibiting expenditures made in settlement of militia claims for services in the year 1856, and also transcripts, under

seal of the State, of any other financial exhibits to be found on the records of the State showing the amounts expended by the State for expenses incurred in suppressing Indian hostilities in Florida between the 1st day of December, 1855, and the 1st day of January, 1860.

This evidence is required to enable this Department to properly comply with the provisions of the joint resolution approved March 3, 1881, directing an investigation as to the amount and character of the disbursements referred to.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. WILLIAM D. BLOXHAM,
Governor of the State of Florida, Tallahassee, Fla.

EXHIBIT No. 12.

EXECUTIVE OFFICE,
Tallahassee, Fla., April 12, 1882.

SIR: I have the honor to acknowledge the receipt of your communication of the 24th ultimo., requesting to be furnished with a "transcript, under seal of the State, of the financial statement of Capt. J. W. Pearson, disbursing agent of the State of Florida, under date of November 30, 1859, exhibiting expenditures made in settlement of militia claims for service in the year 1856, and also transcripts, under seal of the State, of any other financial exhibits to be found in the records of the State showing the amounts expended by the State for expenses incurred in suppressing Indian hostilities in Florida between the 1st day of December, 1855, and the 1st day of January, 1860," and in compliance therewith I herewith transmit papers marked respectively A and B, duly authenticated under seal of State.

I am informed by the agent of the State that the vouchers in most part sustaining the account of J. W. Pearson (marked A) have been filed in your Department, and it is much to be regretted that all of these vouchers, as well as the vouchers upon which the payments by the Treasury (Statement B) were made, can not be furnished. In probable explanation of this it may not be improper for me to say that, after the late civil war, the archives and official records of the State were removed from their original places of deposit and stored in an unused and damp vault, where many of them were much mutilated and defaced, and some entirely lost.

The payments of these expenses of Indian hostilities by the State were made in good faith, and upon full recognition and approval of the State authorities, and I may add with borrowed capital, upon which the State is now at this date paying interest.

I will also add that no portion of these disbursements has ever been reimbursed by United States.

Very respectfully,

W. D. BLOXHAM,
Governor of Florida.

Hon. ROBERT T. LINCOLN,
Secretary of War, Washington, D. C.

A.

EXHIBIT No. 13.

Message from the governor on the subject of payment of volunteers, State loan, etc.

EXECUTIVE DEPARTMENT,
Tallahassee, December 9, 1859.

Gentlemen of the Senate and House of Representatives:

I submit herewith the official report of Col. John W. Pearson, who was appointed by me disbursing agent to discharge the debts and liabilities of the State incurred in suppressing Indian hostilities in the year 1856. I negotiated a loan for the State, through the agency of Col. Pearson, in the cities of Charleston and Savannah, for $241,300, payable in twelve months, which will be due in April, 1860. The State realized in cash from said loan $222,015, and has disbursed $193,331, leaving a cash balance of $28,684, as per report of the disbursing agent, to which your attention is respectfully invited. The abstracts and vouchers for the unpaid claims referred to in

the report of the agent have been placed in his hands with instructions to pay the same. In this connection I would call your attention to the fact that no claims for services rendered prior to the mustering in of the several companies have been paid. In several instances companies were organized on the first outbreak of the Indians, without awaiting orders, and promptly marched to the defense of the unprotected citizens, who were being massacreed by the savages, and actually performed active and arduous service for which they have not been paid. This service was recognized and approved by the executive, but the agent has not felt authorized to pay from the day of enrollment, but from the date of mustering in, in accordance with the Army Regulations of the United States. I would respectfully recommend that the several companies of State troops be paid from the date of enrollment, upon satisfactory proof being made that they did actually perform active service in suppressing Indian hostilities The act "to provide for the payment of the debts of the State," approved December 27, 1856, authorized the issuance of $500,000 of bonds in the name and behalf of the State, for the payment of the debts of the State, or so many thereof as may be necessary, conditioned, however, that the said bonds should be sold at their par value or hypothecated for the payment of a loan to the State, to be negotiated on the most practicable terms. It was questioned by capitalists whether the power to hypothecate carried with it the right to sell the bonds upon the failure of the State to pay the loan at maturity, and I was unable either to sell the bonds at their par value or to negotiate a loan upon them by hypothecation. This fact was communicated by me to the legislature, and the difficulty removed by "An act in addition to an act to provide for the payments of the debts of the State," approved January 15, 1859, empowering the governor to stipulate for the sale of the bonds hypothecated, or so many thereof as may be found necessary, at their market value, to meet the debt at maturity in the event the same shall not be otherwise provided for.

It has always been claimed, and I believe never denied, that the duty of suppressing Indian hostilities devolved upon the general Government, and that Government had long ago endeavored to effect their removal, and assumed the right to permit them to remain in the State, and withdrew the protection which the people had a right to expect. On the breaking out of hostilities the people on the frontier, for want of the protection which it was the duty of the Federal Government to give, found it necessary to embody themselves, and perform the services which the exigencies of the times imposed upon them, and in doing so they had to abandon their usual occupations and suffer all the privations incident to an exposed frontier life. Under these circumstances the State felt it due to her own citizens to provide for their payment, relying on the justice of the General Government to refund to her the amount which she felt it her duty to pay.

The justice of such a demand can not rightfully be disputed, and it is hoped will at once be recognized. I therefore recommend that the general assembly will, either by memorial or resolutions, or such other mode as they deem best, request of Congress the passing of a law refunding to the State the amount she has expended.

The loan made by the State to enable her to pay the just claims of her citizens falls due in April next, for the payment of which three hundred and forty-six thousand dollars of the bonds of the State ($346,000) have been hypothecated, by virtue of authority in me vested by the above-recited acts, and as the Federal Government may fail to refund in time the amount thus advanced by the State, I would recommend that the governor be authorized to sell, at their fair market value, so many of the bonds as may be found necessary to pay the loan at maturity, rather than permit them to be thrown upon the market at the option of the parties holding them, in the event of the payment not being otherwise provided for.

Very respectfully,

M. S. PERRY.

TALLAHASSEE, FLA., *November* 30, 1859.

DEAR SIR: I herewith transmit to you a statement, together with my account current with the State of Florida as disbursing agent in the settlement of militia claims for services rendered in the year 1856:

I received from the State in cash		$222,015
I have paid claims to the amount of	$193,331	
Cash balance on hand ready to pay over	28,684	
		222,015

I refer to account current with vouchers for proof. The pay rolls show the amount of nearly $1,800 which is yet unpaid, owing to the fact that the parties performing the service for which it is due have deceased, and no representatives have qualified as executors or administrators to receipt for the same. The abstracts and vouchers

of Captains Hooker, E. T. Kendrick, Addison, and Parker's companies, for transportation, etc., have not been placed in my hands for disbursement; consequently they are not paid. I have no means of knowing the amount, as I have not been able to see abstracts and vouchers.

Very respectfully, your obedient servant,

J. W. PEARSON,
Disbursing Agent.

His Excellency Governor PERRY.

J. W. Pearson in account with State of Florida.

DR.

To cash received from Bank of Charleston	$92,000.00
To cash received from People's Bank	46,000.00
To cash received from the People's Bank	12,880.00
To cash received from S. W. R. R. Bank	46,000.00
To cash received from Merchants and Planters' Bank	25,135.00
	222,015.00
To balance	29,029.84
Less additional allowance, account omitted	345.00
	28,684.84

CR.

By cash paid A. J. T. Wright's company	$9,667.71
By cash paid Asa Stewart's company	11,510.89
By cash paid A. Bell's company	3,526.62
By cash paid W. B. Hardee's company	180.14
By cash paid Robert Youngblood's company	5,804.18
By cash paid E. Daniel's company	1,999.35
By cash paid A. D. Johnson's company	16,739.85
By cash paid A. D. Johnston's company	8,893.93
By cash paid W. H. Kendick's company	16,277.99
By cash paid W. H. Kendrick's company	8,966.50
By cash paid Ed. Kendrick's company	3,243.36
By cash paid L. G. Lesley's company	14,108.34
By cash paid W. B. Hooker's company	4,809.57
By cash paid John Addison's company	10,232.41
By cash paid F. M. Durrance's company	15,794.93
By cash paid F. M. Durrance's company	9,693.00
By cash paid John McNeill's company	2,059.03
By cash paid John McNeill's company	3,303.06
By cash paid Simeon Sparkman's company	2,967.31
By cash paid Thos. Hughey's company	803.91
By cash paid R. B. Sullivant's company	809.15
By cash paid A. J. T. Wright's company	574.68
By cash paid John Parker's company	4,556.69
By cash paid staff officers, assistant surgeons, etc	12,341.49
By cash paid quartermaster men	710.33
By cash paid transportation, etc	17,546.95
By cash commissions for negotiating and disbursing	5,550.37
By cash on hand due State of Florida	29,029.84
	222,015.00

TALLAHASSEE, *December* 2, 1859.

I have compared with this account the abstract of disbursements on account of transportation, etc., and find that the paymaster is entitled to $345 more than is embraced in this account.

I also find the account to correspond with abstracts of disbursements to staff off-

cers, etc., and persons employed in the quartermaster's department. The proper amounts are as follows:

Transportation, etc	$17,891.95
Staff officers, etc	12,341.49
Quartermaster men	710.33

HUGH ARCHER,
Quartermaster-General.

I have compared the pay rolls with the above (except $12,341.49, $710.43, and $17,546.95) and find them to correspond.

DECEMBER 2, 1859.

C. H. AUSTIN, *Paymaster.*

STATE OF FLORIDA,
Office of the Secretary of State:

I, John L. Crawford, secretary of state, do hereby certify that the foregoing (embraced in pages 1 to 7, inclusive) is a true and correct copy of and transcript from the original manuscript record of the proceedings of the senate of the State of Florida as recorded on pages 519, 520, 521, and 522 of "Record Book D, senate journal of 1856 to 1861," and as the same appears on pages 102, 103, 104, and 105 of the printed official journals of the senate.

Given under my hand and the great seal of the State of Florida this 12th day of April, A. D. 1882, at Tallahassee, the capital.

[SEAL.]

JNO. L. CRAWFORD,
Secretary of State

B.

Treasurer's report.

TREASURER'S OFFICE,
Tallahassee, November 1, 1856.

To the general assembly of the State of Florida:

GENTLEMEN: In accordance with the requisitions of the law relative to the duties of this office, I have the honor herewith to submit my report of the transactions at the treasury for the period of from November 1, 1855, to October 31, 1856; also reports of the school and seminary funds for the same period.

Very respectfully, your obedient servant,

C. H. AUSTIN, *Treasurer.*

[Extract.]

The treasurer in account with the State of Florida.

1856. CR.

November 1. By amount of comptroller's warrants paid under the following heads of appropriations:

* * * * * * *

Indian hostilities $2,688.28

Treasurer's report.

TREASURER'S REPORT,
Tallahassee, November 1, 1858.

To his Excellency MADISON S. PERRY,
Governor of Florida:

SIR: I have the honor to present herewith, and through you to the general assembly, reports exhibiting the transactions at this office from the period of November 1, 1856, to October 31, 1857, and from November 1, 1857, to October 31, 1858; also reports for the same period upon the school fund and seminary fund.

Very respectfully,

C. H. AUSTIN, *Treasurer.*

[Extract.]

The treasurer in account with the State of Florida.

1857.
November 1. By amount of comptroller's warrants paid and other disbursements, viz:

* * * * * * *

Subsistence and forage claims	$40,830.17
Indian war of 1856	25,865.20
	66,695.37

[Extract.]

The treasurer in account with the State of Florida.

1858.
November 1. By amount of comptroller's warrants paid and other disbursements, viz:

* * * * * * *

Subsistence and forage:

H. H. Hooker's account, subsistence and forage	$2,440.64
C. M. Castello, subsistence and forage	172.00
Jesse Carter, special agent, services	4,920.82
H. Archer, jr., quartermaster	1,139.00
	8,672.46

STATE OF FLORIDA,
Office of the Secretary of State:

I, John L. Crawford, secretary of state, do hereby certify that the foregoing are true and correct copies of the official reports of the treasurer of the State of Florida for the years respectively from November 1, 1855, to October 31, 1856; from November 1, 1856, to October 31, 1857; and from November 1, 1857, to October 31, 1858; and the extracts given from the financial statement in said reports are true and correct extracts, and are corroborated by original entries in the books of record and accounts now on file in the office of the treasurer of the State.

Given under my hand and the great seal of the State of Florida, at Tallahassee, the capital, this 12th day of April, A. D. 1882.

[SEAL.]

JNO. L. CRAWFORD,
Secretary of State.

EXHIBIT No. 15.

WAR DEPARTMENT,
Washington City, March 27, 1882.

SIR: The accompanying abstract (A) with vouchers, submitted to this Department under the provisions of the joint resolution of March 3, 1881, pertaining to the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, are, by direction of the Secretary of War, respectfully referred to you for investigation and report as soon as practicable.

The report will be so framed as to show in detail the amount of each payment properly made under the laws of the United States governing organization and rates of pay and allowances during the periods charged for, and also the payments as in a statement of differences which should not be accepted under the terms of the joint resolution above referred to as falling within the rules of admission, and to indicate generally the character of the proofs submitted in the premises.

The joint resolution to which reference is made will be found on page 520, volume 21 of the United States Statutes at Large.

Very respectfully,

JOHN TWEEDALE,
Acting Chief Clerk.

To the PAYMASTER-GENERAL.

EXHIBIT No. 16.

Report of the Paymaster-General on the Claim of the State of Florida under joint resolution dated March 3, 1881.

The vouchers referred to this office for examination and report are numbered 1 to 20, inclusive, 23 and 26¼, Abstract A.

Herewith submitted are an extract and statement of differences numbered to correspond with the vouchers to which they respectively pertain, showing in detail the amounts claimed, allowed, suspended, and disallowed, with reasons for suspension or disallowance.

Where short payments occur, the amount short paid is not stated, as the State can not claim credit for an amount greater than that paid.

Where short and overpayments occur in the same case, the short payment has been allowed to offset, so far as it would, the overpayments.

On vouchers Nos. 1 to 18, inclusive, all suspensions, unless otherwise indicated, are on account of the absence of powers of attorney and letters of administration authorizing parties other than the payees to receipt the rolls.

With voucher No. 19 there is a muster roll, but no pay roll.

Pay and allowances have been computed for each man named, with the exception of two, who received commissions.

The estimated amount exceeds the amount claimed, but the whole is suspended, as it can not be determined who were and who were not paid by the State.

Voucher No. 20 has a muster roll but no pay roll. The amount claimed exceeds the amount estimated. The whole is suspended for same reason as voucher No. 19.

Voucher No. 23 same as No. 19.

Voucher No. 26¼.

In the statement of differences the cases marked * are borne on the F. & S. muster roll, but there are no vouchers or other evidence of payment. Pay and allowances are estimated for the time stated, but the amount is suspended.

In the cases marked † the names are *not* borne on the muster roll, but vouchers for the amounts claimed to have been paid are filed, though not certified by the State agent, nor authenticated in any manner. These amounts are suspended, no evidence connecting them with the service.

In cases marked ‡ the names are borne on the muster roll, and vouchers are filed for the amounts claimed.

These cases are allowed, except as to amounts overcharged.

The total amount claimed on this voucher, as per abstract, largely exceeds the amount of ascertained and estimated pay. The excess is disallowed.

Vouchers Nos. 10, 12, 13, 14, 16, and 17.

The muster rolls are not certified by the State agent.

Vouchers Nos. 6 and 15 have no muster rolls, and the pay rolls are not certified by the State agent.

The payments, except where suspended on account of powers of attorney, etc., not being filed, though entered in column of "allowed," should not be *finally* allowed until there be some evidence filed of service rendered.

Pay and allowances have been computed at rates authorized by law and regulations in force at the time the service is alleged to have been rendered.

WM. B. ROCHESTER,
Paymaster-General, U. S. Army.

T. M. E.

PAYMASTER-GENERAL'S OFFICE, *April* 20, 1882.

EXHIBIT No. 17.

Abstract of differences, Abstract A.

Company.	Voucher.	Amount claimed.	Amount allowed.	Amount suspended.	Amount disallowed.
W. B. Hooker	1	$4,809.57	$4,249.14	$307.87	$252.56
F. M. Durrance	2	15,794.91	8,068.91	6,916.81	789.19
F. M. Durrance	3	9,693.00	5,969.68	3,598.24	125.08
William H. Kendrick	4	16,277.99	13,923.26	2,235.20	119.53
William H Kendrick	5	8,906.50	7,250.77	1,581.34	74.39
A. D. Johnson	6	16,739.85	12,821.30	3,638.36	280.19
A. D. Johnson	7	8,833.93	6,222.27	2,084.19	127.47
L. G. Leeley	8	14,108.34	12,851.47	888.83	368.04
A. J. T. Wright	9	574.68	454.31	90.18	30.19
A. J. T. Wright	10	9,667.71	7,535.15	1,926.36	206.20
John McNeill	11	2,059.45	1,836.46	167.59	55.40
Asa A. Stewart	12	11,510.89	7,595.38	3,896.93	18.58
Robert Youngblood	13	5,804.18	4,026.54	1,671.51	106.13
E. Daniel	14	1,994.82	1,172.66	809.19	12.97
W. B. Hardee	15	186.14	164.85	14.19	1.10
A. Bells	16	3,526.62	1,971.08	1,440.53	115.01
T. Hughey	17	784.40	551.76	229.26	3.38
E. Kendrick	18	3,243.36	1,270.42	1,928.74	44.20
John Addison	19	10,232.43	.....	10,232.43	.....
John Parker	20	4,556.59	.....	4,023.98	532.61
R. B. Sullivant	22	809.15	.....	809.15	.....
Field and staff	26½	12,341.49	1,265.08	2,361.23	8,715.18
		162,450.00	99,620.49	50,852.11	11,977.40

EXHIBIT No. 18.

Statement of differences—Voucher No. 1, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	William B. Hooker	Captain	$241.09	$215.40		$25.69	Entitled only to $40 per month pay proper, $10 per month for command of company, and $2.50 per month servant's clothing.
2	John Parker	Lieutenant	224.42	183.40		41.02	Entitled only to $30 per month pay proper and $2.50 per month servant's clothing.
3	Joseph M. Pearce	do	216.09		$175.40	40.69	Entitled only to $25 per month pay proper and $2.50 per month servant's clothing. Balance suspended; no evidence of authority of administrator.
4	James D. Greene	Sergeant	59.50	57.60		1.90	
5	Francis A. Ivey	do	54.50	52.76		1.74	
6	George W. Hendry	do	54.50	52.76		1.74	
7	William Hall	do	54.50	52.76		1.74	
8	John Underhill	Corporal	46.65	45.38		1.27	
9	Michael Alderman	do	47.83	46.33		1.50	
10	John W. Riggs	do	47.83	46.33		1.50	
11	William Simmons	do	47.83		46.33	1.50	Balance suspended; no power of attorney filed.
12	Benjamin Hilliard	Bugler	46.20	44.82		1.38	
13	James H. Thomas	do	44.43	44.43			Paid as private instead of musician; short payment exceeds overpayment.
14	Mathew Driggers	F. and B	49.50	43.07		6.33	Difference between pay of private and pay of farrier disallowed; infantry not allowed a farrier.
15	Alderman, Jesse	Private	44.43	43.07		1.36	
16	Alderman, Mathew	do	44.43	43.07		1.36	
17	Alderman, Mitchel	do	44.43	43.07		1.36	
18	Alderman, William	do	44.43	43.07		1.36	
19	Braning, David	do	43.56	42.20		1.36	
20	Barber, William W	do	42.70	41.30		1.40	
21	Burnett, Mathew	do	42.70	41.30		1.40	
22	Brown, Henry	do	42.70	41.30		1.40	
23	Carova, Andrew	do	34.65	33.30		1.35	
24	Cathron, Aaron C	do	44.43	43.07		1.36	
25	Campbell, William L	do	38.21	36.85		1.36	
26	Carlton, Isaac	do	44.43	43.07		1.36	
27	Collins, William A	do	44.43	43.07		1.36	
28	Driggers, Jacob	do	44.43	43.07		1.36	
29	English, Eli	do	44.43	43.07		4.36	
30	Gillet, Daniel	do	44.43	43.07		1.36	
31	Gillet, Daniel K	do	44.43	43.07		1.36	
32	Gillet, David W	do	44.43	43.07		1.36	
33	Guilley, William	do	44.43	43.07		1.36	
34	Guilley, Nathan	do					Not paid.
35	Guy, Benjamin	do	44.43	43.07		1.36	
36	Guy, William B	do	44.43	43.07		1.36	
37	Hendry, George W	do	44.43	43.07		1.36	

38	Bendry, Albert J	do	38.21	36.85		1.36	
39	Henderson, Robert	do	44.43		43.07	1.36	Balance suspended; no power of attorney filed.
40	Hilliard, Benjamin	do	43.56	42.20		1.36	
41	Hooker, John J	do	44.43	43.07		1.36	
42	Hooker, William J	do	44.43	43.07		1.36	
43	Hooker, Stephen P	do	44.43	43.07		1.36	
44	Hollingsworth, William R.	do	44.43	43.07		1.36	
45	Hollingsworth, John H	do	44.43	43.07		1.36	
46	Howard, Seth	do	43.56	42.20		1.36	
47	Ivy, William I	do	42.70	41.30		1.40	
48	Jones, Lucurtes	do	41.83	40.40		1.43	
49	Langford, Henry	do	44.43	43.07		1.36	
50	Lanier, Lewis	do	44.43	43.07		1.36	
51	McLeod, Daniel J	do	43.56	42.20		1.36	
52	McLeod, John	do	43.56	42.20		1.36	
53	McLeod, William	do	43.56	42.20		1.36	
54	McCullough, William	do	44.43	43.07		1.36	
55	McDonald, John	do	44.43	43.07		1.36	
56	McMullen, James P	do	44.43	43.07		1.36	
57	Moore, Joseph	do	44.43	43.07		1.36	
58	Main, David	do	37.66	36.06		1.60	Also error of 27 cents in calculation of pay.
59	Moody, Benjamin	do	39.99	38.63		1.36	
60	Moody, James A	do	44.43	43.07		1.36	
61	Moody, William B	do	44.43	43.07		1.36	
62	O'Neill, John	do	44.43	43.07		1.36	
63	Orr, Henry B	do	44.43	43.07		1.36	
64	Parker, William	do	44.43	43.07		1.36	
65	Pelham, Richard	do	44.43	43.07		1.36	
66	Platt, John	do	43.56	42.20		1.36	
67	Platt, Lewis B	do	44.43	43.07		1.36	
68	Platt, William C	do	44.43	43.07		1.36	
69	Raulerson, Jacob R	do	44.43	43.07		1.36	
70	Riggs, Joshua D. C	do	38.21	36.85		1.36	
71	Russell, David	do	44.43	43.07		1.36	
72	Singletary, Simpson	do	44.43	43.07		1.36	
73	Skipper, John L	do	42.70	41.30		1.40	
74	Sloan, Daniel	do	44.43	43.07		1.36	
75	Sloan, Alford	do	43.56	42.20		1.36	
76	Sloan, Joseph	do	44.43	43.07		1.36	
77	Sloan, Owen	do	43.56	42.20		1.36	
78	Smith, Renney J	do	44.43	43.07		1.36	
79	Stallings, William W	do	43.56	42.20		1.36	
80	Summerall, Thomas	do	44.43	43.07		1.36	
81	Tyson, George	do	43.56	42.20		1.36	
82	Underhill, William	do	44.43	43.07		1.36	
83	Waters, Isaac	do	44.43	43.07		1.36	
84	Weeks, John	do	38.21	36.85		1.36	
85	Wilson, James T	do	44.43	43.07		1.36	
86	Whidden, Bennett	do	42.70	41.30		1.40	
87	Whidden, James, jr	do					Not paid
88	Whidden, John	do	38.21	36.85		1.36	
89	Whidden, Edward	do	44.43	43.07		1.36	

EXHIBIT No. 18.—*Statement of differences—Voucher No. 1, Abstract A*—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
90	Whidden, Jesse	Private	$43.56	$42.20		$1.36	
91	Whidden, Maxfield, sr	do	43.56	42.20		1.36	
92	Whidden, Maxfield, jr	do	43.56	42.20		1.36	
93	Whidden, William	do	43.56	42.20		1.36	
94	Whidden, Willoughby	do	43.56	42.20		1.36	
95	Whidden, William J	do	44.43	43.07		1.36	
96	Whidden, James, sr	do	43.56	42.20		1.36	
97	Weeks, Levi	do	44.43	43.07		1.36	
98	Henry A. Crane	do	56.93		$43.07	13.86	Also $12.50 extra pay; company quartermaster and commissary not authorized. Balance suspended; no power of attorney filed.
			4,809.57	4,249.14	307.87	252.56	

All officers and men on this roll are overpaid two days' pay and clothing and one day for use of horse and horse equipments.
The company was mustered into United States service February 21; therefore, pay on this roll for that day is disallowed.
Pay and clothing are not allowed for January 31, but subsistence and pay for use of horse, being per diem allowances, are allowed for that day.

EXHIBIT No. 19.

Statement of differences—Voucher No. 2, Abstract A.

No.	Name	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Francis M. Durrance	Captain	$867.96	$867.96			Short payments exceed overpayments. Entitled to $40 pay proper, $10 per month for command of company, $2.50 per month servant's clothing, and $1 per day subsistence prior to July 1, 1856; $60 pay proper, $10 command of company, $2.50 servant's clothing, and $1.50 per day subsistence since July 1, 1856.
2	Edward T. Kendrick	First lieutenant	807.96	748.38		$59.58	Entitled to $30 per month to July 1; $50 per month after July 1. Other allowances same as above, except for command of company.
3	Alderman Carlton	Second lieutenant	483.92			483.92	$73.43 of this amount is overpayment by various errors. The balance, $410.49, is disallowed, as the officer's name does not appear on the muster-roll, and there is no evidence that he was ever in the State service.
4	F. C. M. Bogges	First sergeant	194.50	194.50			
5	Joseph L. Durrance	Second sergeant	196.30	196.30			
6	Thomas Underhill	Third sergeant	196.30	171.00		25.30	Pay for use of horse since June 14, when horse was killed, is disallowed; not shown that he furnished a horse after that time. Less 1 day short paid pay and clothing.
7	John Attman	Fourth sergeant	196.30		$196.30		
8	Silas McClelland, sr.	First corporal	167.76	167.76			
9	James H. Kennady	Second corporal	172.26		172.26		
10	James A. Stephens	Third corporal	165.61		165.61		
11	William H. Mansfield	Fourth corporal	172.26	172.26			
12	William H. Durrance	Bugler	166.66	166.66			
13	Lorenzo D. Townsend	do	159.96		159.96		Overpaid difference between pay of private and pay of farrier. Less 19 days' pay and clothing and 3 days' pay for use of horse short paid.
14	Wyley D. K. Pollard	F. and B	177.96	161.71		16.25	
15	Attman, James R.	Private	159.96	159.96			
16	Attman, William	do	159.96		159.96		
17	Branen, Joseph S	do	159.96		159.96		
18	Brocker, Stephen	do	159.96	159.96			
19	Brazil, Green	do	159.96		159.96		
20	Brooker, William P.	do	159.96		159.96		
21	Brown, Raigdon	do	159.96	159.96			
22	Brown, Reigdon H	do	159.96		159.96		
23	Brown, William H	do	159.96		159.96		
24	Carlton, Daniel H	do	150.96	134.51		25.45	Overpaid for use of horse since June 14, when horse was killed; no shown to have remounted himself. Less 1 day's pay and clothing short paid.
25	Crews, Isham	do	159.96	159.96			
26	Davis, Stafford	do	159.96	159.96			
27	Dyning, Jeremiah	do	178.71	178.71			
28	Downing, Charles W	do	159.96		159.96		
29	Durrance, George T	do	159.96	159.96			
30	Durrance, John R	do	159.96		159.96		

Statement of differences—Voucher No. 2, Abstract A—Continued.

No.	Name.	Rank.	Claimed	Allowed.	Suspended.	Disallowed.	Remarks.
31	Durrance, Jesse H	Private	$159.96	$159.96			
32	Ellis, Thomas	do	159.96		$159.96		
33	Ellis, Thomas B	do	159.96		159.96		
34	Ellis, William	do	159.96		159.96		
35	Garrison, Green	do	159.96		159.96		
36	Green, Israel	do	159.96		159.96		
37	Green, John	do	159.96	159.96			
38	Godwin, Jacob	do	159.96		159.96		
39	Godwin, John	do	159.96		159.96		
40	Godwin, Samuel S	do	159.96		159.96		
41	Haywood, John	do	159.96		128.51	31.45	Overpaid for use of horse since May 30, when horse died; not shown to have remounted himself. Less 1 day's pay and 55 cents clothing short paid.
42	Hickey, Dennis	do	159.96	159.96			
43	Hinson, Alfred G	do	159.96		159.96		
44	Hill, Thomas W	do	159.96		159.96		
45	Mansfield, George	do	159.96		159.96		
46	McClelland, Maxfield	do	159.96	159.96			
47	McClelland, Erastus W	do	159.96		128.51	31.45	Same as No. 41.
48	McClelland, Jesse	do	159.96		159.96		
49	McClelland, Moses A	do	159.96		159.96		
50	McClelland, William	do	159.96	159.96			
51	McCormick, Thomas	do	159.96		159.96		
52	Platt, Berrian	do	159.96	159.96			
53	Platt, Peter	do	159.96	159.96			
54	Ranlerson, Jackson	do	159.96	159.96			
55	Ranlerson, John B	do	159.96	159.96			
56	Ranlerson, Raburn	do	159.96	159.96			
57	Roberts, James	do	159.96		159.96		
58	Sistrunk, Henry	do	159.96	159.96			
59	Shepherd, Isaac	do	159.96	159.96			
60	Seward, Walter B	do	159.96		159.96		
61	Scott, Charles H	do	159.96		159.96		
62	Shepherd, W. H	do	159.96	159.96			
63	Summerall, Joseph	do	159.96		159.96		
64	Tillis, Dempsey	do	159.96		159.96		
65	Tillis, James L	do	159.96		134.51	35.45	Overpaid for use of horse since June 14, when horse was killed; not shown to have remounted himself. Less 1 day's pay and 55 cents clothing short paid.
66	Thomas, John	do	159.96	159.96			
67	Tyre, John	do	159.96		159.96		
68	Tillis, Willoughby	do	159.96	134.51		25.45	Same as No. 65.
69	Tyre, Thomas L	do	159.96		159.96		
70	Underhill, Joseph	do	159.96		159.96		
71	Varns, Frederick	do	159.96	159.96			

34	Godwin, Jacob	do	159.96	159.96			Do.
35	Head, Stephen	do	159.96	159.96			Do.
36	Hagan, Francis B	do	159.96	159.96			Do.
37	Hana, James H	do	159.96	159.96			Do.
38	Hammack, Samuel	do	159.96	159.96			Do.
39	Harn, Alonzi	do	159.96	159.96			Do.
40	Harn, Henry J	do	159.96	159.96			Do.
41	Harrell, John W	do	159.96	159.96			Do.
42	Hawthorn, Kedar	do	159.96	159.96			Do.
43	Hawthorn, Washington L	do	159.96	159.96			Do.
44	Jackson, Thomas B	do	159.96	159.96			Do.
45	Jackson, James W	do	159.96	159.96			Do.
46	Kersey, Liborn	do	159.96	159.96			Do.
47	Legget, Benjamin	do	159.96	159.96			Do.
48	Mathews, William H	do	159.96	159.96			Do.
49	Marsh, James L	do	159.96	159.96			Do.
50	Morris, James E	do	159.96		159.96		Do.
51	O'Neill, Seaborn C	do	159.96	159.96			Do.
52	Osborn, David	do	159.96	159.96			Do.
53	Pinkerton, Daniel W	do	159.96	159.96			Do.
54	Phelps, Joseph I	do	159.96	159.96			Do.
55	Platt, John W	do	159.96	159.96			Do.
56	Powell, George W	do	159.96	159.96			Do.
57	Rivers, Sylvester	do	159.96	159.96			Do.
58	Sharp, Charles W	do	159.96	159.96			Do.
59	Smith, William	do	159.96		159.96		Do.
60	Stafford, William	do	159.96		159.96		Do.
61	Sylvester, Augustine	do	159.96	159.96			Do.
62	Sumner, Jesse C	do	159.96	159.96			Do.
63	Tyner, Jackson	do	159.96	159.96			Do.
64	Tyner, Jordan	do	159.96		159.96		Do.
65	Tyner, Wilson	do	159.96	159.96			Do.
66	Thigpen, William H	do	159.96	159.96			Do.
67	Thomas, James M	do	159.96	159.96			Do.
68	Thomas, William	do	159.96	159.96			Do.
69	Thompson, William I	do	159.96	159.96			Do.
70	Tucker, Alonzi	do	159.96		159.96		Do.
71	Tucker, Edward D	do	159.96	154.96			Do.
72	Tucker, Pleasant T	do	159.96	159.96			Do.
73	Tucker, Lewis M	do	159.96	159.96			Do.
74	Tucker, Thomas R	do	159.96	159.96			Do.
75	Watson, William I	do	159.96		159.96		Do.
76	Wamsley, Lewis W	do	159.96		159.96		Do.
77	Weeks, Andrew J	do	159.96	159.96			Do.
78	Tucker, Thomas M	do	159.96	159.96			Do.
79	Weeks, George W	do	159.96	159.96			Do.
80	Wilson, John	do	159.96	159.96			Do.
81	Williams, Abraham F	do	159.96	159.96			Do.
82	Williams, Irwin I	do	159.96	159.96			Do.
83	Williams, Judge E	do	159.96		159.96		Do.
84	Wingate, Richard	do	159.96	159.96			Do.
85	Davis, William H	do	103.23		103.23		

EXHIBIT No. 20.

Statement of differences—Voucher No. 3, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	F. M. Durrance	Captain	$578.64	$578.64			Entitled to $60 per month pay proper, $10 per month for command of company, $1.50 per day for subsistence, $2.50 per month servant's clothing. Short payments exceed overpayments.
2	Willoughby Tillis	First lieutenant	538.64	518.64			Short payments exceed overpayments.
3	Joseph Howell	Second lieutenant	518.64	518.64			Do.
4	T. C. M. Bogges	First sergeant	142.64	142.64			
5	Thomas L. Tyre	Second sergeant	130.84		$130.84		
6	Jacob Tyre	Third sergeant	130.84		130.84		
7	James A. Stephens	Fourth sergeant	130.84		130.84		
8	John Ranlerson	First corporal	114.72		114.72		
9	Berrien Platt	Second corporal	114.72	114.72			
10	Thomas Ellis	Third corporal	114.72		114.72		
11	Dempey Tillis	Fourth corporal	114.72		114.72		
12	Isaac Watters	Bugler	111.12	111.12			
13	John R. Durrance	do	106.64	166.64			
14	John Tyre	F. and B	118.64		107.48	$11.16	Overpaid difference between private F. and B., less 80 cents short paid for use and risk of horse and 4 cents short paid in clothing. Infantry not entitled to F. and B.
15	Attman, William	Private	106.64		106.64		
16	Attman, James R.	do	106.64	106.64			
17	Attman, John	do	106.64		106.64		
18	Attman, Lewis	do	106.64		106.64		
19	Blout, John	do	106.64	106.64			
20	Boney, David J. W.	do	106.64	106.64			
21	Baxley, Willis	do	106.64		106.64		
22	Brown, William	do	106.64		106.64		
23	Durance, Joseph L.	do	106.64	106.64			
24	Durance, William H.	do	106.64	106.64			
25	Durance, Jesse H.	do	106.64	106.64			
26	Dyning, Jeremiah	do	106.64	106.64			
27	Ellis, William	do	106.64	106.64			
28	Eason, M. H.	do	106.54		106.64		
29	Ellis, Thomas B	do	106.64		106.64		
30	Green, John	do	106.64	106.64			
31	Godwin, John	do	106.64		106.64		
	Garrison, Green	do					Not paid.
32	Godwin, Jacob	do	106.64		106.64		
33	Hill, Thomas W	do	106.64		106.64		
34	Hogan, Daniel N	do	106.64	106.64			
	Haywood, John	do					Not paid.
35	Hendry, Charles W.	do	106.64	106.64			
36	McClelland, William	do	106.64	106.64			
37	McClelland, William E	do	106.64		106.64		
38	McClellen, Jesse	do	106.64		106.64		

EXHIBIT No. 22.

Statement of differences—Voucher No. 5, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	William H. Kendrick	Captain	$481.96	$481.96			Entitled to $60 per month pay proper, $10 per month for command of company, $1.50 per day for subsistence, and $2.50 per month servant's clothing, and overpaid 2 days' pay and servant's pay. Short payments exceed overpayments.
2	Nathaniel M. Moody	Lieutenant	448.62	448.62			Overpaid 2 days' pay and servants' pay; short paid in subsistence. Short payments exceed overpayments.
3	Morgan Mizell	do	431.96	431.96			Do.
4	Thomas Barco	Sergeant	118.79	117.59		$1.20	Overpaid 2 days' pay, less 13 cents short paid in clothing.
5	Stephen D. Hall	do	108.79	107.70		1.09	Overpaid 2 days' pay, less 4 cents short, paid in clothing.
6	George W. Weeks	do	108.79	107.70		1.09	Do.
7	Nathan Boyet	do	108.79	107.70		1.09	Do.
8	James F. Barnes	Corporal	95.33	94.59		.74	Overpaid 2 days' pay, less 12 cents short paid in clothing.
9	Joshua A. Platt	do	95.33	94.59		.74	Do.
10	John Boyet	do	95.33	94.59		.74	Do.
11	Daniel W. Pinkston	do	95.33	94.59		.74	Do.
12	Edward Boyet	Bugler	92.38	91.49		.89	Overpaid 2 days' pay and 9 cents clothing.
13	William R. Overstreet	do	88.64		$88.64		Overpaid 2 days' pay, but short paid as musician. Short payments exceed overpayments.
14	James M. Bates	E. and B.	98.64	87.91		10.73	Overpaid 2 days' pay and difference between private and F. and B Infantry not entitled to F. and B.
15	Allen, William E	Private	88.64	87.91		.73	Overpaid in pay proper 2 days each.
16	Bates, John M	do	88.64	87.91		.73	Do.
17	Bates, Robert I	do	88.64	87.91		.73	Do.
18	Bates, George W	do	88.64		87.91	.73	Do.
19	Bissett, George	do	88.64	87.91		.73	Do.
20	Boyet, John G. B	do	88.64		87.91	.73	Do.
21	Brassel, Darling	do	88.64		87.91	.73	Do.
22	Branch, William T	do	88.64	87.91		.73	Do.
23	Carter, Jesse	do	88.64	87.91		.73	Do.
24	Chapman, Nathaniel T	do	88.64	87.91		.73	Do.
25	Coleman, John	do	88.64	87.91		.73	Do.
26	Douglass Daniel R	do	88.64	87.91		.73	Do.
27	Duggers, James J	do	88.64	87.91		.73	Do.
28	Frier, James J	do	88.64	87.91		.73	Do.
29	Gobrick, Peter	do	88.64	87.91		.73	Do.
30	Godwin, Jacob	do	88.64	87.91		.73	Do.
31	Green, John C	do	88.64		87.91	.73	Do.
32	Hand, James H	do	88.64	87.91		.73	Do.
33	Ham, Alonzo	do	88.64	87.91		.73	Do.
34	Hagan, Francis B	do	88.64	87.91		.73	Do.
35	Harn, Henry, jr	do	88.64		87.91	.73	Do.
36	Hammock, Samuel	do	88.64	87.91		.73	Do.

EXHIBIT No. 21.

Statement of differences—Voucher No. 4, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	William H. Kendrick	Captain	$867.96	$867.96			Short paid two days in time; entitled to $40 per month pay proper, $10 for command of company, $1 per day subsistence, and $2.50 per month servant's clothing prior to July 1, and to $60 per month pay proper, $10 per month for command of company, $1.50 per day subsistence, and $2.50 per month servant's clothing since July 1; short payments exceed overpayment.
2	Francis M. Durrance	Lieutenant	807.96	759.16		$48.80	Short paid two days in time; overpaid $20 per month in pay proper prior to July 1; entitled only to $2.50 per month servant's clothing; overpayments exceed short payments.
3	John Knight	do	777.96	728.83		49.13	Same as No. 2.
4	Joseph M. Tucker	Sergeant	202.30	202.30			
5	Enoch B. Phelps	do	196.30	196.30			
6	James M. Bates	do	196.30	196.30			
7	Morgan Mizell	do	196.30	196.30			
8	Jesse H. Tucker	Corporal	172.26	172.26			
9	Seth S. Prevatt	do	172.26	172.26			
10	William D. O'Neill	do	172.26	172.26			
11	George Stafford	do	172.26	172.26			
12	Nathan Boyet	Bugler	166.56	166.56			
13	William R. Overstreet	do	159.96		$159.96		
14	Nathaniel M. Moody	F. and B	177.96	162.59		15.57	Overpaid difference of pay between private and F. and B., less two days' pay and clothing and four day's pay for use of horse short paid.
15	Bates, John M	Private	159.96	159.96			Short paid two days' pay and clothing, and four days' pay for use and risk of horse, $2.63.
16	Bates, Robert J	do	159.96	159.96			Do.
17	Bates, George W	do	159.96	159.96			Do.
18	Barnes, Caleb	do	159.96	159.96			Do.
19	Barnes, James F	do	159.96	159.96			Do.
20	Bradford, James I	do	159.96		159.96		Do.
21	Branch, Charles L	do	159.96		159.96		Do.
22	Branch, Samuel E. I	do	159.96	159.96			Do.
23	Branch, William T	do	159.96	159.96			Do.
24	Bassil, Darling	do	159.96		159.96		Do.
25	Bisset, George	do	159.96	159.96			Do.
26	Bird, Jackson	do	159.96	159.96			Do.
27	Boyet, Anderson A	do	159.96	159.96			Do.
28	Boyet, James A	do	159.96	159.96			Do.
29	Boyet, John	do	159.96	159.96			Do.
30	Brown, James L	do	159.96	159.96			Do.
31	Carter, Jesse W	do	159.96	159.96			Do.
32	Friar, James I	do	159.96	159.96			Do.
33	Gobrich, Peter	do	159.96	159.96			Do.

82	Wingate, Richard	do	88.64		87.91	.73	Do.
83	Wilson, John	do	88.64	87.91		.73	Do.
84	O'Neill, William D	do	24.86	23.51		1.35	Overpaid two days' pay proper, one day for use of horse, and 22 cents clothing.
85	Phelps, Enoch B	do	15.65	14.63		1.02	Overpaid two days' pay proper, one day for use of horse, less 11 cents short paid in clothing.
86	Buck, Richard W	do	88.74		86.14	2.60	Overpaid $2.56 in pay proper and 4 cents in clothing.
87	Garrison, William M	do	60.58	60.58			
88	Hutchinson, James E	do	60.58	60.58			
89	Harrell, John W	do	71.25	71.25			
			8,906.50	7,250.77	1,581.34	74.39	

Statement of differences—Voucher No. 4, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
86	Lanier, Isaac	Private	$40.00	$40.00			
87	McMinn, Charles I	do	48.42	48.42			
88	Sylvester, Eli	do	59.90	50.90			
89	Tucker, William W	do	94.71		$94.71		
90	Wilkinson, Malcom H	do	123.97		117.74	$6.23	Receipt purports to be signed by the soldier in person; died July 7 instead of July 17. See muster roll.
91	Williams, Robert H	do	171.96	171.96			
			16,277.99	13,923.26	2,235.20	119.53	

34	Evins, Charles	do	164.41	164.41			Do.
35	Fussell, Arnold B	do	164.41		164.41		Do.
36	Fussell, James C	do	164.41	164.41			Do.
37	Fussell, William	do	164.41	164.41			Do.
38	Gant, Jacin	do	164.41	164.41			Do.
39	Gant, John B	do	164.41	164.41			Do.
40	Glenn, John R	do	164.41		164.41		Do.
41	Godwin, Seaborn	do	164.41	164.41			Do.
42	Hanley, Wells	do	164.41	164.41			Do.
43	Hart, Christopher C	do	164.41		164.41		Do.
44	Hart, William B	do	164.41		164.41		Do
45	Hays, George F	do	164.41	164 41			Do.
46	Hays, Robert	do	164.41	164.41			Do.
47	Hays, William J	do	164.41	164.41			Do.
48	Hutchinson, David	do	164.41	164.41			Do.
48½	Johnson, James F. P	do	164.41			164.41	These men are short paid one day each in pay proper, four days in pay for use and risk of horse, and 17 cents in clothing. No receipt.
49	Johnson, John W	do	164.41	164.41			These men are short paid one day each in pay proper, four days in pay for use and risk of horse, and 17 cents in clothing.
50	Jones, James	do	164.41	164.41			Do.
51	Jones, James W	do	164.41	164.41			Do.
52	Lea, Calvin J	do	164.41		164.41		Do.
53	Lewis, Charles W	do	164.41	164.41			Do.
54	Logan, William	do	164.41	164.41			Do.
55	Lockeily, Irvin	do	164.41	164.41			Do.
56	Massey, John	do	164.41	164.41			Do.
57	Matchett, Jacob	do	164.41	164.41			Do.
58	Matchett, John W	do	164.41	164.41			Do.
59	Matchett, William	do	164.41	164.41			Do.
60	McCaight, Austin	do	164.41	164.41			Do.
61	Merrit, Josiah	do	164.41		164.41		Do.
62	Merrit, Paton	do	164.41	164.41			Do.
63	McNair, James S	do	164.41		164.41		Do.
64	Mills, George	do	164.41	164.41			Do.
65	Mims, John L	do	164.41	164.41			Do.
66	Mobley, George R	do	164.41	164.41			Do.
67	Mobley, John	do	164.41		164.41		Do.
68	Newberry, David J. W	do	164.41		164.41		Do.
69	Newberry, Hezekiah	do	164.41	164.41			Do.
70	Odom, James P	do	164.41	164.41			Do.
71	Ross, Lorenzo D	do	164.41	164.41			Do.
72	Rutherford, Austin G	do	164.41	164.41			Do.
73	Sloan, Alexander L	do	164.41	164.41			Do.
74	Sloan, William W	do	164.41	164.41			Do.
75	Stanley, Miller	do	164.41	164.41			Do.
76	Swicord, Joseph	do	164.41	164.41			Do.
77	Swicord, Michael	do	164.41	164.41			Do.
78	Swicord, William F	do	164.41		164.41		Do.
79	Tillman, John B	do	164.41		164.41		Do.
80	Thompson, Abner J	do	164.41		164.41		Do.
81	Wall, James G	do	164.41		184.41		Do.
82	Weeks, Richard A. K. C	do	164.41	164.41			Do.

Statement of differences—Voucher No. 5, *Abstract A*—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
37	Harris, Joseph	Private	$88.64	$87.91		$0.73	Overpaid in pay proper two days each.
38	Halliday, Edward B	do	88.64		$87.91	.73	Do.
39	Harrell, Edward E	do	88.64	87.91		.73	Do.
40	Jackson, James W	do	88.64	87.91		.73	Do.
41	Jackson, William S	do	88.64	87.91		.73	Do.
42	Jackson, Thomas B	do	88.64	87.91		.73	Do.
43	Jones, Mathew E	do	88.64	87.91		.73	Do.
44	Kersey, Lilbourn	do	88.64	87.91		.73	Do.
45	Kyle, Christopher H	do	88.64	87.91		.73	Do.
46	Knight, John	do	88.64	87.91		.73	Do.
47	Lanier, Isaac	do	88.64	87.91		.73	Do.
48	Mobley, Ransom	do	88.64	87.91		.73	Do.
49	Mathews, William W	do	88.64	87.91		.73	Do.
50	Morris, James E	do	88.64		87.91	.73	Do.
51	Moody, Enoch M	do	88.64		87.91	.73	Do.
52	Nettles, Isaac	do	88.64	87.91		.73	Do.
53	Osburne, David	do	88.64	87.91		.73	Do.
54	Prevatt, Seth S	do	88.64	87.91		.73	Do.
55	Powell, George M	do	88.64	87.91		.73	Do.
56	Platt, John B	do	88.64	87.91		.73	Do.
57	Ryols, Daniel C	do	88.64	87.91		.73	Do.
58	Stafford, George	do	88.64	87.91		.73	Do.
59	Stafford, William	do	88.64		87.91	.73	Do.
60	Sylvester, Eli	do	88.64		87.91	.73	Do.
61	Smith, Andrew J	do	88.64	87.91		.73	Do.
62	Smith, John	do	88.64	87.91		.73	Do.
63	Smith, William	do	88.64		87.91	.73	Do.
64	Sumner, Jesse C	do	88.64	87.91		.73	Do.
65	Tucker, Thomas M	do	88.64	87.91		.73	Do.
66	Tucker, Edward D	do	88.64	87.91		.73	Do.
67	Tucker, Alonzo	do	88.64		87.91	.73	Do.
68	Tucker, Thomas R	do	88.64	87.91		.73	Do.
69	Tyner, Jordan	do	88.64		87.91	.73	Do.
70	Thigpen, William H	do	88.64	87.91		.73	Do.
71	Tyner, Jackson	do	88.64	87.91		.73	Do.
72	Tyner, Wilson	do	88.64	87.91		.73	Do.
73	Thomas, James M	do	88.64	87.91		.73	Do.
74	Thomas, William	do	88.64	87.91		.73	Do.
75	Tucker, Lewis M	do	88.64	87.91		.73	Do.
76	Tucker, Pleasant F	do	88.64		87.91	.73	Do.
77	Wills, Israel I	do	88.64	87.91		.73	Do.
78	Wamsley, Lewis W	do	88.64	87.91		.73	Do.
79	Williams, James M	do	88.64		87.91	.73	Do.
80	Weeks, Silas	do	88.64	87.91		.73	Do.
81	Wells, Jacob	do	88.64	87.91		.73	Do.

EXHIBIT No. 24.

Statement of differences—Voucher No. 7, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Abner D. Johnston	Captain	$531.02	$531.02			Overpaid two days in time, and overpaid in allowance for clothing of servant. Short paid 50 cents per day in subsistence, and not paid $10 per month for command of company. Short payments exceed overpayments.
2	James P. F. Johnston	Lieutenant	494.35	494.35			Overpaid two days in time, and overpaid in servant's clothing allowance. Short paid 50 cents per day in subsistence. Short payments exceed overpayments.
3	James Weeks	do	476.02	476.02			Same as No. 2.
4	Richard R. C. Weeks	Sergeant	130.96	129.11		$1.85	Overpaid two days' pay proper; one day for use of horse, and 12 cents clothing.
5	Millard Stanley	do	120.53	118.21		2.32	Overpaid three days' pay proper; one day for use of horse, and 22 cents clothing.
6	John W. Matchett	do	120.53		$118.21	2.32	Do.
7	Abner I. Thompson	do	120.53		118.21	2.32	Do.
8	Jason Gant	Corporal	105.29	103.76		1.53	Overpaid two days' pay proper; one day for use of horse, and 27 cents clothing.
	Thomas H. Stewman	do					
9	William H. Calson	do	67.81	66.43		1.38	Overpaid two days' pay proper; one day for use of horse, and 12 cents clothing.
10	Benjamin B. Williams	do	67.81		66.43	1.38	Do.
11	Robert I. Beckham	Bugler	102.00	100.34		1.66	Overpaid two days' pay proper; one day for use of horse, and 46 cents clothing.
12	John L. Mims	do	82.50		82.50		Overpaid two days' pay proper; one day for use of horse; but paid only as private. Short payments exceed overpayments.
13	James W. Stanley	F. and B.	108.97	96.41		12.56	Overpaid two days in time; also in difference between pay of private and F. and B. Infantry not entitled to F. and B.
14	Aiken, Preston	Private	97.97	96.41		1.56	Overpaid in clothing 43 cents; also two days' pay, and one day for use of horse.
15	Aiken, John	do	62.83	61.74		1.09	Overpaid two days' pay, and one day for use of horse; less 4 cents clothing short paid.
16	Beckham, Hiram	do	97.97	96.41		1.56	Overpaid two days' pay, and one day for use of horse, and 43 cents clothing.
17	Bennet, Charles	do	97.97	96.41		1.56	Do.
18	Brown, Nathan L	do	97.97	96.41		1.56	Do.
19	Beckham, Jerome M	do	82.50		81.30	1.20	Overpaid two days' pay, and one day for use of horse, and 7 cents clothing.
20	Black, George W	do	82.50	81.30		1.20	Do.
21	Badger, Edward N	do	62.83	61.74		1.09	Overpaid two days' pay, and one day for use of horse; less 4 cents clothing short paid.
22	Bradshaw, Dixon G. H	do	62.83		61.74	1.09	Do.
23	Colding, Thomas C	do	62.83	61.74		1.09	Do.
24	Colding, Samuel	do	62.83		61.74	1.09	Do.
25	Collins, George W	do	62.83	61.74		1.09	Do.
26	Colding, James B	do	62.83	61.74		1.09	Do.
27	Colson, Thomas K	do	62.83	61.74		1.09	Do.

EXHIBIT No. 23.

Statement of differences—Voucher No. 6, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Abner D. Johnston	Captain	$892.07	$892.07			Short paid one day in time. Entitled to $40 per month pay proper and $10 per month for command of company, and $1 per day subsistence, prior to July 1, 1856, and $60 per month pay proper, $10 per month for command of company, and $1.50 per day subsistence since July 1, 1856, and $2.50 per month for servants' clothing. Short payments exceed overpayments.
2	Bee W. Crews	First lieutenant	830.40	780.27		$50.13	Overpaid $20 per month pay proper prior to July 1, 1856. Entitled only to $2.50 per month servants' clothing, but short paid in subsistence 50 cents per day since July 1, 1856. Overpayments exceed short payment.
3	James Weeks	Second lieutenant	799.57	750.27		49.30	Same as No. 2.
4	Moses Daniels	Sergeant	220.88	220.88			
5	John S. Barrenton	...do	201.71	201.71			
6	John Aiken	...do	201.71	201.71			
7	Hiram Parrish	...do	201.71	201.71			
8	James B. Crum	Corporal	176.71	176.71			
9	Daniel B. Chiver	...do	176.71	176.71			Signs *Shiver*.
10	Crawford Williamson	...do	176.71	176.71			
11	Michael Whitman	...do	176.71		$176.71		
12	Aaron Wooley	Bugler	171.31		171.31		
13	James H. Murchey	...do	164.41	164.41			
14	James W. Stanley	F. and B	182.90		166.55	16.35	Overpaid difference between private and F. and B. less 1 day's pay and clothing short paid. Infantry not entitled to F. and B.
15	Akins, Preston	Private	164.41	164.41			These men are short paid one day each in pay proper, four days in pay for use and risk of horse, and 17 cents in clothing.
16	Beckham, Alex. C	...do	164.41		164.41		Do.
17	Beckham, Marion J	...do	164.41	164.41			Do.
18	Bennett, Charles	...do	164.41	164.41			Do.
19	Berill, Granville	...do	164.41	164.41			Do.
20	Bradshaw, Dixon G. H	...do	164.41		164.41		Do.
21	Bradshaw, James B	...do	164.41		164.41		Do.
22	Brown, William C	...do	164.41	164.41			Do.
23	Brown, Nathaniel L	...do	164.41	164.41			Do.
24	Caruthers, Augustus L	...do	164.41	164.41			Do.
25	Clay, Shadrach H	...do	164.41	164.41			Do.
26	Collins, Daniel	...do	164.41	164.41			Do.
27	Collins, George W	...do	164.41	164.41			Do.
28	Collins, James	...do	164.41	164.41			Do.
29	Condy, James A	...do	164.41		164.41		Do.
30	Crawford, Emanuel	...do	164.41	164.41			Do.
31	Crews, Edward F	...do	164.41		164.41		Do.
32	Crum, Harmon	...do	164.41	164.41			Do.
33	Evins, Alex. L	...do	164.41	164.41			Do.

64	Pagett, William W	do	97.97		96.41	1.56	Do.
65	Rains, Mathew	do	97.97	96.41		1.56	Do.
66	Shiver, Daniel	do	97.97	96.41		1.56	Do.
67	Stafford, William H	do	97.97	96.41		1.56	Do.
68	Sivicord, William	do	97.97		96.41	1.56	Do.
69	Sivicord, Michael	do	97.97	96.41		1.56	Do.
70	Sivicord, Benjamin F	do	90.55		90.18	.37	Overpaid in pay proper one day.
	Sinclair, Alexander	do					
71	Sims, John S	do	97.97	96.41		1.56	Overpaid two days' pay proper; one day for use of horse, and 43 cents in clothing.
72	Sims, Benjamin F	do	62.83		61.74	1.09	Overpaid two days' pay proper; one day for use of horse, less 4 cents clothing short paid.
73	Sylvester, William H	do	62.83	61.74		1.09	Do.
74	Skipper, John F	do	62.83	61.74		1.09	Do.
75	Skipper, William C	do	62.83		61.74	1.09	Do.
76	Tucker, Elijah H. H	do	62.83		61.74	1.09	Do.
77	Tillman, John B	do	97.97	96.41		1.56	Overpaid two days' pay proper; one day for use of horse, and 43 cents in clothing.
78	Wall, James S	do	97.97	96.41		1.56	Do.
79	Whitman, James	do	97.97	96.41		1.56	Do.
80	Weeks, Stephen	do	97.97	96.41		1.56	Do.
81	Williams, Wilson C	do	97.97	96.41		1.56	Do.
82	Williams, Alexander R	do	97.97	96.41		1.56	Do.
	Williams, William H	do					
83	Wilson, Simeon	do	97.97	96.41		1.56	Overpaid two days' pay proper; one day for use of horse, and 43 cents in clothing.
84	Whitman, Michael	do	62.83	61.74		1.09	Overpaid two days' pay proper; one day for use of horse, less 4 cents clothing short paid.
85	Wells, Simeon H	do	62.83		61.74	1.09	Do.
			8,833.93	6,622.27	2,084.19	127.47	

This company was mustered into the United States service December 20; not entitled to pay on these rolls for that day, nor for the 31st October.

Statement of differences—Voucher No. 6, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
83	Weeks, Stephen	Private	$164.41	$164.41			These men are short paid one day each in pay proper, four days in pay for use and risk of horse, and 17 cents in clothing.
84	Whitman, Bryant	do	164.41		$164.41		Do.
85	Whitman, Jacob	do	164.41	164.41			Do.
86	Whitman, James	do	164.41	164.41			Do.
87	Williams, Blaney	do	164.41	164.41			Do.
			16,739.85	12,821.30	3,638.36	$280.19	

There is no muster roll of this company.

27	Campbell, William N	do	143.06	141.65		1.41	Do.
28	Campbell, William L	do	147.66	146.21		1.45	Overpaid 86 cents pay proper—1 day for use of horse, and 19 cents clothing.
29	Drew, Octavius	do	143.06	141.65		1.41	Overpaid 73 cents pay proper—1 day for use of horse, and 28 cents in clothing.
30	Dyches, Wilson	do	143.06	141.65		1.41	Do.
31	Eady, Joseph	do	143.06	141.65		1.41	Do.
32	Fuel, John E	do	143.06		141.65	1.41	Do.
33	Ferguson, Francis	do	143.06	141.65		1.41	Do.
34	Gunther, John B	do	124.26	123.65		.61	Overpaid 73 cents pay and 28 cents clothing, less 40 cents short paid for use of horse.
35	Gay, James L	do	143.06	141.65		1.41	Overpaid 73 cents pay proper—1 day for use of horse and 28 cents in clothing.
36	Hague, Gideon	do	143.06	141.65		1.41	Do.
37	Handcock, James F	do	143.06	141.65		1.41	Do.
38	Handcock, Martin J	do	143.06	141.65		1.41	Do.
39	Handcock, Jordan	do	143.06		141.65	1.41	Do.
40	Halliday, Edward B	do	143.06	141.65		1.41	Do.
41	Hill, Henry R	do	143.06	141.65		1.41	Do.
42	Hickey, John E	do	143.06	141.65		1.41	Do.
43	Hutchinson, Joseph	do	143.06	141.65		1.41	Do.
44	Hogan, James B	do	143.06	141.65		1.41	Do.
45	Hambleton, George	do	143.06	141.65		1.41	Do.
46	Long, Levi	do	143.06	141.65		1.41	Do.
47	Long, Nathaniel	do	143.06	141.65		1.41	Do.
48	Long, James T	do	143.06	141.65		1.41	Do.
49	Lockhart, Joel L	do	143.06	141.65		1.41	Do.
50	Lang, Oswald	do	143.06	141.65		1.41	Do.
51	Main, David	do	143.06	141.65		1.41	Do.
52	Mizell, Joseph	do	143.06	141.65		1.41	Do.
53	Mizell, Enoch	do	143.06	141.65		1.41	Do.
54	Manley, James M	do	143.06	141.65		1.41	Do.
55	Nobles, Alfred	do	143.06	141.65		1.41	Do.
56	Newberry, Hiram	do	143.06		141.65	1.41	Do.
57	Oats, John C	do	143.06	141.65		1.41	Do.
58	Ormond, Alexander W	do	143.06	141.65		1.41	Do.
59	Paget, William W	do	143.06	86.45		56.61	Horse killed Apr. 3, 1856. No evidence that he ever remounted himself. Also, overpaid 73 cents pay proper, and 28 cents in clothing.
60	Rogers, William P	do	143.06	141.65		1.41	Overpaid 73 cents pay proper—1 day for use of horse, and 28 cents in clothing.
61	Rawles, James W	do	143.06	141.65		1.41	Do.
62	Sherley, Thomas	do	143.06	141.65		1.41	Do.
63	Seward, Henry S	do	143.06	141.65		1.41	Do.
64	Seward, Zachariah, sr	do	143.06	141.65		1.41	Do.
65	Seward, Zachariah	do	143.06	85.65		57.41	Horse killed Apr. 1, 1856. No evidence that he remounted himself. Also, overpaid 73 cents in pay proper, and 28 cents in clothing.
66	Seward, Felix	do	143.06	141.65		1.41	Overpaid 75 cents pay proper—1 day for use of horse, and 28 cents in clothing.
67	Seals, Cornelius	do	143.06	141.65		1.41	Do.
68	Summerall, David	do	143.06	141.65		1.41	Do.
69	Vicker, John	do	143.06	141.65		1.41	Do.
70	Varn, William B	do	143.06	141.65		1.41	Do.

Statement of differences—Voucher No. 7, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
28	Colson, Abraham	Private	$62.83	$61.74		$1.09	Overpaid two days' pay, and one day for use of horse; less 4 cents clothing short paid.
29	Carter, Hardee	do	97.97	96.41		1.56	Overpaid two days' pay, and one day for use of horse, and 43 cents in clothing.
30	Clay, Shadrach	do	97.97	96.41		1.56	Do.
31	Cook, James H	do	97.97	96.41		1.56	Do.
32	Collins, David	do	82.50	81.30		1.20	Overpaid two days' pay, and one day for use of horse, and 7 cents in clothing.
33	Collins, James A	do	82.50	81.30		1.20	Do.
34	Cochron, Edward	do	82.50	81.30		1.20	Do.
35	Daniel, Moses	do	97.97	96.41		1.56	Overpaid two days' pay, and one day for use of horse, and 43 cents clothing.
36	Dickson, John S	do	97.97		$96.41	1.56	Do.
	Duncan, Daniel	do					
37	Evans, Charles	do	97.97		96.41	1.56	Overpaid two days' pay, and one day for use of horse, and 43 cents clothing.
38	Fassie, James C	do	97.97	96.41		1.56	Do.
39	Goodwin, Seaborn	do	97.97	96.41		1.56	Do.
40	Golden, Darling	do	97.97		96.41	1.56	Do.
41	Griffin, Francis	do	82.50	81.30		1.20	Overpaid two days' pay, and one day for use of horse, and 7 cents clothing.
42	Gant, John B	do	82.50	81.30		1.20	Do.
43	Hutchinson, David	do	62.83	61.74		1.09	Overpaid two days' pay, and one day for use of horse; less 4 cents clothing short paid.
44	Hutchinson, Lewis B	do	97.97	96.41		1.56	
45	Harchey, Wells	do	97.97		96.41	1.56	Overpaid two days' pay, and one day for use of horse, and 43 cents clothing.
46	Jones, James	do	97.97	96.41		1.56	Do.
47	Jones, Watkins	do	97.97		96.41	1.56	Do.
48	Johnston, John W	do	97.97	96.41		1.56	Do.
49	Jernigan, Aaron, jr	do	97.97	96.41		1.56	Do.
50	Jernigan, Moses	do	97.97		99.41	1.56	Do.
51	Jones, David	do	97.97	96.41		1.56	Do.
52	Key, William	do	97.97	96.41		1.56	Do.
	Lewis, Littleton R	do					
53	Logan, Thomas L	do	97.97		96.41	1.56	Overpaid two days' pay proper; one day for use of horse, and 43 cents in clothing.
54	Lamar, John H	do	97.97	96.41		1.56	Do.
55	Marsay, John J	do	97.97	96.41		1.56	Do.
56	McNair, James S	do	97.97	96.41		1.56	Do.
57	McNair, John E	do	97.97	96.41		1.56	Do.
58	Mobly, John	do	97.97		96.41	1.56	Do.
59	Morgan, John A	do	62.83	61.74		1.09	Overpaid two days' pay proper; one day for use of horse, less 4 cents clothing short paid.
60	Odom, James P	do	97.97	96.41		1.56	Overpaid two days' pay proper; one day for use of horse, and 43 cents in clothing.
61	Phelps, Joseph T	do	97.97	96.41		1.56	Do.
62	Parker, William	do	97.97		96.41	1.56	Do.
63	Parrish, Hiram	do	97.97		96.41	1.56	Do.

EXHIBIT No. 26.

Statement of differences—Voucher No. 9, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	A. J. T. Wright	Captain	$96.43	$82.33		$14.10	Entitled only to $42 per month pay proper, and $2.50 per month for servant's clothing.
2	F. Raulerson	First lieutenant	89.76	75.66		14.10	Entitled only to $30 per month pay proper, and $2.50 per month for servant's clothing.
3	Donald Tompkins	First sergeant	23.77	23.77			
4	R. H. Charles	Sergeant	21.77	21.77			
5	William O. Tison	Corporal	19.10	19.10			
6	Robert J. Bigelow	do	19.10		$19.10		
7	Henry Herrington	Bugler	18.44	18.44			
8	William Bryant	Farrier	19.76	17.77		1.99	Overpaid difference between pay of private and farrier; infantry not entitled to farrier.
9	I. W. M. Tompkins	Private	17.77	17.77			
10	Elija K. Tucker	do	17.77		17.77		Muster rolls show him appointed first sergeant May 13, but is paid only as private.
11	Thomas J. Greene	do	17.77	17.77			
12	John Crews	do	17.77		17.77		
13	Augustus Hall	do	17.77	17.77			Muster rolls show him appointed second corporal May 13, but is paid only as private.
14	James Curry	do	17.77	17.77			
15	Clayton Hargroves	do	17.77	17.77			
16	George Durrance	do	17.77		17.77		
17	Cicero S. Blackshear	do	17.77	17.77			
18	Daniel A. Morgan	do	17.77	17.77			Muster rolls show him appointed second sergeant May 13, but is paid only as private.
19	A. H. Martin	do	17.77	17.77			
20	William Yearty	do	17.77	17.77			
21	John Miller	do	17.77	17.77			
22	George W. Smith	do	17.77		17.77		
23	James S. Turner	do	17.77	17.77			
			574.68	454.31	90.18	30.19	

The muster of this company is not certified by the State agent.

EXHIBIT No. 25.

Statement of differences—Voucher No. 8, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Leroy G. Lesley	Captain	$771.58	$766.17		$5.41	Entitled to $40 per month pay proper, $10 per month for command of company, $2.50 per month servant's clothing, and $1 per day subsistence prior to July 1, and $60 per month pay proper; and $1.50 per day subsistence (with other allowances as above) after July 1. Also overpaid 2 days in time; overpayments exceed short payments.
2	Streaty Parker	First lieutenant	718.24	660.84		57.40	Entitled to only $30 per month prior to July 1; entitled to $1.50 per day for subsistence after July 1; entitled to only $2.50 per month servant's clothing. Overpaid 2 days in time; overpayments exceed short payments.
3	Henry A. Crane	Second lieutenant	691.58	634.50		57.08	Entitled to only $25 per month prior to July 1. Overpayments exceed short payments.
4	Sheord B. McGuire	Sergeant	191.36	189.47		1.87	Overpaid 2 days' pay proper; 1 day for use of horse, and 14 cents in clothing.
5	Owen Blount	do	175.36	173.55		1.87	Overpaid 2 days' pay proper; 1 day for use of horse, and 28 cents in clothing.
6	George W. Price	do	175.36	173.55		1.87	Do.
7	Robert R. Shepherd	do	175.36	173.55		1.87	Do.
8	John Johnson	Corporal	147.32	144.99		2.33	Overpaid 2 days' pay proper; 1 day for use of horse, and 46 cents in clothing.
9	John T. Lesley	do	153.98	152.41		1.57	Overpaid 2 days' pay proper; 1 day for use of horse, and 31 cents in clothing.
10	John Davidson	do	153.98	152.41		1.57	Do.
11	Antoine Wordehoff	do	146.78	146.78			Overpaid in time and clothing, but short paid in pay proper. Short payments exceed overpayments.
12	James D. Haygood	Bugler	168.90	147.42		21.48	Overpaid 2 days' pay proper—1 day for use of horse, 28 cents in clothing, and $20 error in extension.
13	Emory L. Lesley	do	143.06	143.06			Same as No. 11.
14	Freeman Caruthers	F. and B	145.56	141.65			Overpaid difference between private and F. and B. Infantry not entitled to F. and B.; also 2 days' pay proper—1 day for use of horse, and 28 cents clothing.
15	Altman, Lewis	Private	143.06	141.65		3.91	Overpaid 73 cents pay proper—1 day for use of horse, and 19 cents in clothing.
16	Alderman, James	do	143.06	141.65		1.41	Do.
17	Booth, Richard	do	143.06	141.65		1.41	Do.
18	Blount, Redding	do	143.06	141.65		1.41	Do.
19	Blount, Redding R.	do	143.06	141.65		1.41	Do.
20	Blount, Nathan	do	143.06	141.65		1.41	Do.
21	Blount, Jacob J	do	143.06	141.65		1.41	Do.
22	Barton, John W	do	143.06		$141.65	1.41	Do.
23	Boney, David J. W	do	143.06	141.65		1.41	Do.
24	Ballard, William C	do	143.06	141.65		1.41	Do.
25	Clark, Elias D	do	143.06	141.65		1.41	Do.
26	Clark, John J	do	143.06	141.65		1.41	Do.

30	Griffis, William H	do	89.65	89.65			
31	Herbert, George S	do	148.43	119.44	28.99		Extra-duty pay is suspended for evidence that the extra duty is of the nature contemplated in the act of Congress, less 26 cents short paid in pay.
32	Harriet, Joseph	do	89.65	89.65			
33	Hunter, Henry	do	89.65	89.65			
34	Hunter, Archibald	do	89.65	89.65			
35	Hardee, William B	do	80.70	80.70			
36	Hargroves, Clayton	do	119.18	119.18			
37	Hamilton, John G	do	55.05	55.05			
38	Ivey, James L	do	89.65	89.65			
39	Jeffreys, Joseph A	do	115.40	90.58		24.82	Extra pay is disallowed; muster roll does not show him entitled; $25.75, less 93 cents short, paid in pay, clothing, and use of horse.
40	Johns, James B	do	89.65	89.65			
41	Jarrard, David, jr	do	89.65	89.65			
42	Keene, John	do	82.10	82.10			
43	Keene, Noah	do	82.10	82.10			
44	Keene, Thomas	do	82.10	82.10			
45	Keene, Harris	do	68.18		68.18		
46	Keene, Humphrey	do	68.18	68.18			
47	Keene, Randall	do	55.05	55.05			
48	Lemack, James H	do	119.18		119.18		
49	Miller, John	do	135.43	119.44	15.99		Extra-duty pay suspended, same as 31; $16.25, less 26 cents short, paid in pay and clothing.
50	Mickler, John H., jr	do	119.18	119.18			
51	McClure, John C	do	89.65	89.65			
52	Mickler, Peter S	do	55.05	55.05			
53	Mickler, John H., sr	do	55.05	55.05			
54	Ogleaby, Josiah	do	40.00	39.52		.48	Overpaid one day in pay and clothing.
55	Howell, Lewis	do	119.18	119.18			
56	Roberts, R. L	do	89.65	89.65			
57	Rewis, R. D	do	71.28		71.28		
58	Rewis, Obadiah	do	89.65	89.65			
59	Ravels, William	do	89.65	89.65			
60	Smith, George W	do	119.18		119.18		
61	Stanand, Dempsey	do	119.18		119.18		
62	Stuggs, Lorenzo D	do	119.18	119.18			
63	Smith, Henry T	do	65.42	65.42			
64	Slaughter, C. L	do	119.18	119.18			
65	Slaughter, Moses H	do	119.18	119.18			
66	Stapleton, Francis	do	121.65		116.33	5.32	Extra-duty pay overestimated $5.32; $25.72 extra-duty pay suspended. (See No. 31.)
67	Summerall, Henry	do	89.65	89.65			
68	Slaughter, William H	do	89.65		89.65		
69	Smith, James W. W	do	89.65	89.65			
70	Smith, John	do	89.65	89.65			
71	Turner, James S	do	119.18	13.73		105.45	Entitled to pay only to nclude June 2; Elisha Gibson, a substitute, is entitled to and should receipt for the balance.
72	Turner, C. C	do	119.18	119.18			
73	Wright, Levi	do	119.18		119.18		
74	Wilkerson, Robert	do	89.65	89.65			
75	Wilkerson, D. P	do	89.65	89.65			

Statement of differences—Voucher No. 8, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
71	Varn, Josiah	Private	$143.06	$141.65		$1.41	Overpaid 75 cents pay proper—1 day for use of horse, and 28 cents in clothing.
72	Whidden, James	do	143.06	141.65		1.41	Do.
73	Whidden, Noah	do	143.06	141.65		1.41	Do.
74	Whidden, Willoughby, jr.	do	143.06	141.65		1.41	Do.
75	Willingham, William H	do	143.06	141.65		1.41	Do.
76	Willingham, William J	do	143.06	141.65		1.41	Do.
77	Wiggins, Andrew	do	143.06	141.65		1.41	Do.
78	Wiggins, James R.	do	143.06		$141.65	1.41	Do.
79	Williams, William H	do	143.06	141.65		1.41	Do.
80	White, David	do	143.06	141.65		1.41	Do.
81	Whitehurst, David S	do	143.06	141.65		1.41	Do.
82	Whitehurst, John	do	143.06	141.65		1.41	Do.
83	Whitehurst, Robert T	do	143.06	141.65		1.41	Do.
84	Carney, John	do	32.66		31.51	1.15	Overpaid 73 cents pay proper—1 day for use of horse, and 2 cents in clothing.
85	Mitchell, Thomas	do	110.83	110.14		.69	Overpaid 73 cents pay, less 4 cents clothing short pay.
86	Samuel S. Harris	Corporal	153.93		149.07	.42	Overpaid 38 cents clothing and 1 day in horse pay, less 36 cents short paid in pay proper. This man is not borne on the muster roll of his company.
			14,108.34	12,851.47	888.83	368.04	

This company was mustered into United States service August 20, 1856; therefore not entitled to pay for that day on this roll.

EXHIBIT No. 28.

Statement of differences—Voucher No. 11, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	John McNeil	Lieutenant	$264.82	$225.56		$29.26	Was only second lieutenant as per certificate to muster roll, but is paid as first lieutenant. Only entitled to $2.50 per month, servant's clothing. Short paid 50 cents per day in subsistence after July 1. Overpayments exceed short payments. Allowed pay of second lieutenant.
2	William M. Garrison	Sergeant	70.23	69.52		.71	Overpaid 66 cents pay and 5 cents clothing.
3	William I. Hart	do	64.33		$63.67	.66	Overpaid one day in pay and clothing.
4	William Brown	Corporal	56.46	55.90		.56	Do.
5	Robert E. Osborn	do	56.46	55.90		.56	Do.
6	Alexander, Albert I	Private	52.43	51.96		.47	Do.
7	Alexander, James A	do	52.43	51.96		.47	Do.
8	Bayet, Edward	do	52.43		51.96	.47	Do.
9	Bassett, Josiah B	do	52.43	51.96		.47	Do.
10	Bassett, John F	do	52.43	51.96		.47	Do.
11	Bassett, John	do	52.43	51.96		.47	Do.
12	Bankwright, Hilliard P	do	52.43	51.96		.47	Do.
13	Bankwright, Wade E	do	52.43	51.96		.47	Do.
14	Colding, Samuel B	do	52.43	51.96		.47	Do.
15	Colding, James	do	26.66	26.66			Do.
16	Cray, Scott W	do	52.43	51.96		.47	Do.
17	Enicks, Andrew S	do	52.43		51.96	.47	Do.
18	Hancock, Henry	do	52.43	51.96		.47	Do.
19	Hancock, James M. J	do	52.43	51.96		.47	Do.
20	Hope, Samuel E	do	52.43	51.96		.47	Do.
21	Hope, David	do	52.43	51.96		147	Do.
22	Johnson, Charles N	do	52.43	51.96		.47	Do.
23	Johnson, William M	do	52.43	51.96		.57	Do.
24	Johnson, Washington	do	52.43	51.96		.47	Do.
25	Johnson, Jesse M	do	52.43	51.96		.47	Do.
26	McNeil, John, jr	do	52.43	51.96		.47	Do.
27	Mizel, Joshua, jr	do	52.43	51.96		.47	Do.
28	McNatt, John B	do	52.43	51.96		.47	Do.
29	McGeachy, Alex. P	do	52.43	51.96		.47	Do.
30	Pearce, Samuel I	do	52.43	51.96		.47	Do.
31	Scott, Alexander	do	52.43	51.96		.47	Do.
32	Wiggins, Richard C	do	52.43	51.96		.47	Do.
33	Wells, Jacob	do	52.43	51.96		.47	Do.
34	Whitehurst, John A	do	42.43	51.96		.47	Do.
35	Whitehurst, Levi S	do	52.43	51.96		.47	Do.
			2,059.45	1,836.46	167.59	55.38	
						.02	Amount overcarried to abstract.
			2,059.45	1,836.46	167.59	55.40	

EXHIBIT No. 27.

Statement of differences—Voucher No. 10, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	A. J. T. Wright	Captain	$361.65	$361.65			Entitled to $40 pay proper, $10 per month for command of company, and $1 per day for subsistence prior to July 1, 1856, and to $60 per month pay proper, $10 for command of company, and $1.50 per day for subsistence since July 1; servant's clothing $2.50 per month for whole time; overpaid one day in time; short payments exceed overpayments.
2	A. B. Bexley	First lieutenant	314.19	293.18		$21.01	$30 pay proper prior to July 1, 1856, $50 after July 1; subsistence and servant's clothing as above; overpayments exceed short payments.
3	W. J. Mickler	Second lieutenant	501.69	501.69			$25 pay proper prior to July 1, $45 after July 1; subsistence and servant's clothing as above; short paid.
4	Donald Tompkins	First sergeant	85.48	85.48			Overpaid 67 cents pay; short paid 20 cents clothing and short paid as first lieutenant $28.90 (see No. 83); short payments exceed overpayments.
5	A. H. Martin	Sergeant	133.63	133.63			
6	William O. Tisin	do	146.23	146.23			
7	Thomas Sweeney	do	131.83	131.83			
8	Augustus Hall	Corporal	128.30	128.30			
9	Thomas L. Greene	do	128.30	128.30			
10	William Fraser	do	128.30	128.30			
11	Simeon Tisin	do	128.30	128.30			
12	L. M. G. Wright	Bugler	124.70	124.28		.42	Overpaid $1.20 pay and 2 cents clothing, less 80 cents short paid for use of horse.
13	William Bryant	Farrier	132.80	119.44		13.36	Infantry not entitled to farrier; overpaid $13.73, difference between private and farrier, and 43 cents clothing, less 80 cents short paid for use of horse.
14	Alford, J. B. L.	Private	119.18		$119.18		
15	Blackshear, C. S	do	119.18	119.18			
16	Biglow, R. I	do	43.06		42.18	.88	Overpaid 73 cents pay and 40 cents for use of horse, less 25 cents short paid in clothing.
17	Bryan, John M	do	89.65		89.65		
18	Brown, B. I	do	104.65	104.65			
19	Beaseley, Isaiah	do	89.65		89.65		
20	Brown, J. L	do	89.65		89.65		
21	Bryan, William P	do	89.65		89.65		
22	Brannin, Alvin	do	89.65	89.65			
23	Benton, David	do	119.18		119.18		
24	Charles. R. H	do	119.18	119.18			
25	Cannon, James	do	119.18		119.18		
26	Durrance, George	do	119.18		119.18		
27	Fraser, John C	do	101.15	101.15			
28	Goodbred, William S	do	114.98	111.74		3.24	Overpaid $6.96 pay and $6.40 for use of horse, less $1.82 short paid in clothing, and $8.30 short paid as second lieutenant. (See No. 84.)
29	Garrett, Chamel	do	103.65	103.65			

35	Davis, Thomas	do	98.50	98.50			
36	Dean, Thadeus R	do	98.50	98.50			
37	Ellis, Thomas C	do	71.85	71.85			
38	Fountain, James J	do	71.85		71.85		
39	Frverson, J. J	do	71.85	71.85			
40	Gillet, Anderson	do	119.27	119.27			
41	Gillet, J. J	do	119.27	119.27			
42	Giddens, Patrick	do	71.85		71.85		
43	Hires, D. O	do	98.50		98.50		
44	Hires, George A	do	98.50	98.50			
45	Hagens, M. D	do	119.27	119.27			
46	Hagens, William H	do	119.27		119.27		
47	Harrington, Jasper	do	98.50	98.50			
48	Hunter, Elijah	do	71.85		71.85		
49	Ivey, M. J	do	98.50	98.50			
50	Ivey, Robert	do	119.27		119.27		
51	Johnston, John	do	98.50	98.50			
52	Kite, Benjamin	do	119.27	119.27			
53	Law, Thomas D	do	71.85	71.85			
54	Law, Josiah B	do	71.85	71.85			
55	Morgan, D. A	do	119.27	119.27			
56	Morgan, Levin	do	119.27		119.27		
57	Martin, Hiram	do	119.27		119.27		
58	Medlin, W. R	do	98.50	98.50			
59	Medlin, John	do	98.50		98.50		
60	Munroe, Neil	do	71.85		71.85		
61	McGowen, Joseph	do	71.85	71.85			
62	McCaskell, P. H	do	71.85		71.85		
63	Nichols, R. G	do	119.27	119.27			
64	Nobles, Saunders	do	64.25	63.03		1.22	Overpaid $1.46 pay and 56 cents clothing, less 80 cents short paid for use of horse.
65	Patrick, Thomas	do	98.50	98.50			
66	Peacock, Isam	do	71.85	71.85			
67	Phelps, L P	do	119.27	119.27			
68	Peterson, John L	do	71.85		71.85		
69	Ranlerson, Moses	do	119.27		119.27		
70	Ranlersoh, Hardee	do	119.27	119.27			
71	Ranlerson, John G	do	119.27	119.27			
72	Roberts, William	do	119.27	119.27			
73	Rogers, Julius D	do	119.27		119.27		
74	Sistrunk, H. J	do	98.50	98.59			
75	Sistrunk, James S	do	98.50	98.50			
76	Sistrunk, Gasper	do	98.50	98.50			
77	Sistrunk, Thomas W	do	98.50	98.50			
78	Sistrunk, D. M	do	98.50	98.50			
79	Strange, Peter	do	71.85		71.85		
80	Sutton, John A	do	71.85	71.85			
81	Snellgrone, George M	do	119.27	119.27			
82	Summerall, Allen	do	98.50		98.50		
83	Shirley, Jonathan	do	98.50	98.50			
84	Shirley, Jackson	do	98.50		98.50		

Statement of differences—Voucher No. 10, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
76	Walker, James R.	Private	$71.28		$71.28		Roll purports to have been signed by the soldier, who, it is shown, died September 9, 1856.
77	Warner, Francis	do	55.45	$55.45			
78	Yearty, William	do	40.00	39.52		$0.48	Overpaid one day in pay and clothing.
79	Simons, John	do	150.18		119.44	30.74	Extra-duty pay disallowed (see No. 39); less 36 cents short paid in pay.
80	Tompkins, J. W. M	do	119.18	119.18			
81	Tyre, Benjamin	do	89.65	89.65			
82	Parker, Benjamin	do	89.65	89.65			
83	Donald Tompkins	First lieutenant	282.60	282.60			Short paid as first lieutenant $28.90; overpaid as first sergeant 47 cents. (See No. 4.)
84	W. S. Goodbread	Second lieutenant	77.80	77.80			Short paid as second lieutenant $8.30; overpaid as private $11.54. (See No. 28.)
85	Henry T. Smith	Captain	289.32	289.32			
			9,667.71	7,535.15	1,956.36	206.20	

The muster roll of this company is not certified by the State agent.

EXHIBIT No. 30.

Statement of differences—Voucher No. 13, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed	Suspended.	Disallowed.	Remarks.
1	Robert Youngblood	First lieutenant	$601.56	$181.70	$419.86		Entitled to $30 per month prior to July 1, and to $50 per month after July 1; 20 cents per ration ($1 per day) prior to July 1, and 30 cents per ration ($1.50 per day) after July 1. Time overstated, 1 day; servant's pay, $2.50 per month; short payments exceed overpayments. Personal allowances receipted for by attorney. Servant's allowances receipted for by officer in person.
2	Asa Clark, jr	Second lieutenant.	418.81	312.68		$106.13	Entitled to $25 per month prior to July 1, and $45 per month since July 1; 20 cents per ration prior to July 1; 30 cents per ration since July 1, and $2.50 per month servant's pay. Time overstated, 2 days; and error in calculation of $86.82.
3	A. H. Harrison	Sergeant	159.63	159.63			
4	Jerome N. Jones	do	146.23	146.23			
5	Richard Buck	do	146.23	146.23			
6	Jackson Gilbert	do	146.23		146.23		Receipted by George A. Hivers; no authority.
7	George Sharp	Corporal	128.25	128.25			
8	George Dress	do	128.25	128.25			
9	William R. Williamson	do	128.25	128.25			
10	James Wimble	do	128.25	128.25			
11	Ransom Cason	Private	119.27	119.27			
12	William Holbrook	do	119.27	119.27			
13	Richard W. Parker	do	119.27	119.27			
14	Berry Byrd	do	119.27	119.27			
15	George Lewis	do	119.27		119.27		
16	Henry Benton	do	119.27	119.27			
17	John Hazle	do	119.27	119.27			
18	Lewis Carlton	do	119.27	119.27			
19	James Merre	do	119.27	119.27			
20	James Kurtlin	do	119.27	119.27			
21	J. C. Kilbrew	do	119.27	119.27			
22	John Jones	do	119.27	119.27			
23	John W. Adkins	do	89.65	89.65			
24	Jerry Johns	do	89.65	89.65			
25	Levi M. C. Johns	do	89.65		89.65		
26	A. I. Tyner	do	89.65	89.65			
27	W. F. Barry	do	89.65	89.65			
28	John Hamilton	do	89.65	89.65			
29	Francis Sanchez	do	89.65	89.65			
30	Cornelius Johns	do	89.65	89.65			
31	Burt Johns	do	89.65	89.65			
32	F. Shepard	do	89.65	89.65			
33	James L. Page	do	89.65	89.65			
34	James H. Martin	do	89.65	89.65			

EXHIBIT No. 29.

Statement of differences—Voucher No. 12, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Asa Stewart	Captain	$652.77	$652.77			Entitled to $40 per month pay proper, $10 for command of company, $1 per day subsistence prior to July 1; and $60 per month pay proper, $10 for command of company, $1.50 per day subsistence since July 1, and only $2.50 per month servant's clothing for the whole time. Overpaid one day in time; short payments exceed overpayments.
2	Franklin Raulerson]	First lieutenant	608.10	608.10			$30 per month prior to July 1 and $50 per month subsequent to July 1; other remarks same as No. 1 (except for command of company).
3	N. Raulerson	Second lieutenant	586.19	586.19			$25 per month prior to July 1, $45 per month after July 1; other remarks same as No 2.
4	E. R. Tucker	First sergeant	159.63		$159.63		
5	William Raulerson	Sergeant	146.23		146.23		
6	I. S. Emanuel	do	146.23		146.23		
7	D. L. Duke	do	146.23	146.23			
8	J. P. Humphreys	Corporal	128.25		128.25		
9	G. F. Duke	do	128.25		128.25		
10	C. F. Bynum	do	128.25		128.25		
11	Jones Curry	do	128.25	128.25			
12	William Merrit	Musician	119.27	119.27			
13	William J. Tucker	Bugler	124.00	124.00			
14	Church McCoy	Farrier	132.56	110.44		$13.12	Overpaid difference between pay of private and farrier $13.75, and 17 cents in clothing, less 80 cents short paid for use of horse; infantry not entitled to a farrier.
15	Alexander, John	Private	34.75		34.17	.58	Overpaid in pay and clothing.
16	Arnold, F. D.	do	71.85		71.85		
17	Atkinson, M.	do	71.85	71.85			
18	Altman, David	do	71.85		71.85		
19	Baker, A. A	do	71.85		71.85		
20	Baker, William J	do	71.85		71.85		
21	Baker, John F	do	71.85		71.85		
22	Bennett, William	do	71.85	71.85			
23	Byrd, William	do	98.50	98.50			
24	Braunin, H. M	do	119.27		119.27		
25	Brown, John C	do	119.27	119.27			
26	Brown, Jeremiah	do	71.85	71.85			
27	Brooks, Thomas	do	98.50	98.50			
28	Bush, William	do	71.85		71.85		
29	Chesser, Thomas	do	98.50	98.50			
30	Chesser, William H	do	98.50	98.50			
31	Compton, Thomas	do	119.27		119.27		
32	Crews, John	do	119.27		119.27		
33	Curry, Joel	do	119.27	119.27			
34	Cobb N. S	do	71.85		71.85		

EXHIBIT No. 31.

Statement of differences—Voucher No. 14, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Enoch Daniels	Lieutenant	$229.07		$218.08	$10.99	Overpaid $20.67 pay proper and $2.12 servant's clothing; short paid $11 subsistence and 80 cents for use of horse.
2	S. Worthington	Private	45.47	$45.47			Overpaid 13 cents in clothing, but short paid 40 cents for use of horse.
3	S. Cowden	do	45.47	45.47			Do.
4	Robert Watterson	do	45.47	45.47			Do.
5	Stephen Hogans	do	47.72	45.74		1.98	Overpaid 13 cents in clothing, short paid 40 cents for use of horse. Extra pay disallowed. Muster roll fails to show that he was on extra duty.
6	Benjamin Smith	do	45.47	45.47			Overpaid 13 cents in clothing, but short paid 40 cents for use of horse.
7	Aaron Smith	do	45.47	45.47			Do.
8	Hamilton Smith	do	45.47	45.47			Do.
9	Joseph Wilkinson	do	35.64	35.64			Do.
10	Alfred Mooney	do	45.47	45.47			Do.
11	Jasper Newson	do	45.47	45.47			Do.
12	Saunders Nobles	do	45.47	45.47			Do.
13	James Starlin	do	45.47	45.47			Do.
14	Jeremiah Brown	do	45.47	45.47			Do.
15	William Gore	do	45.47	45.47			Do.
16	Samuel Hudson, jr	do	45.47		45.47		Do.
17	G. Worthington	do	45.47	45.47			Do.
18	E. D. Hogans	do	45.47		45.47		Do.
19	Jessup Hogans	do	45.47	45.47			Do.
20	James H. Smith	do	45.47	45.47			Do.
21	Lewis Wilkerson	do	45.47		45.47		Do.
22	F. Stapleton	do	45.47		45.47		Do.
23	James W. Daniels	do	45.47		45.47		Do.
24	James G. Daniels	do	45.47	45.47			Do.
25	L. A. Walker	do	45.47	45.47			Do.
26	L. F. Walker	do	45.47		45.47		Do.
27	William A. Hill	do	45.47	45.47			Do.
28	William P. Smith	do	45.47		45.47		Do.
29	Samuel Hudson, sr	do	45.47		45.47		Do.
30	Hamilton Hudson	do	45.47		45.47		Do.
31	Garret Hudson	do	45.47	45.47			Do.
32	Hugh Morrison	do	45.47	45.47			Do.
33	Isaac Ostein	do	45.47		45.47		Do.
34	O. P. H. Kirkland	do	45.47	45.47			Do.
35	James Hudson	do	45.47		45.47		Do.
36	W. F. Smith	do	45.47	45.47			Do.

Statement of differences—Voucher No. 14, *Abstract A*—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
37	John R. Hatcher	Private	$45.47	$45.47			Overpaid 13 cents in clothing, but short paid 30 cents for use of horse.
38	Lewis Daniels	do	.47		$45.47		Do.
39	Willis Wilkinson	do	.47	45.47			Do.
40	Benjamin Lane	do	.47		45 47		Do.
			1,994.82	1,172.66	809.19	$12.97	

The officer commanding this detachment does not sign the certificate at foot of pay roll.
The State agent does not certify to the muster roll, and the official character of the justice of the peace who *does* certify is not authenticated.

EXHIBIT NO. 32.

Statement of differences—Voucher No. 15, Abstract A.

No.	Names.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	William B. Hardie	Sargeant	$22.95	$22.95			
2	R. Baron	Private	14.29	14.19		$10	Overpaid in clothing 10 cents.
3	W. Lemacks	do	14.29	14.19		10	Do.
4	J. Lemacks	do	14.29	14.19		10	Do.
5	N. Hall	do	14.29	14.19		10	Do.
6	J. Most	do	14.29	14.19		10	Do.
7	Lorenzo Suggs	do	14.29	14.19		10	Do.
8	A. J. Moore	do	14.29	14.19		10	Do.
9	W. Cason	do	14.29	14.19		10	Do.
10	N. Cason	do	14.29	14.19		10	Do.
11	J. Locker	do	14.29	14.19		10	Do.
12	G. Crooms	do	14.29		$14.19	10	Do.
	W. Thomas	do					Not claimed.
			180.14	164.85	14.19	1.10	

No muster roll, certificate of State agent, or other evidence of service.

EXHIBIT No. 33.

Statement of differences—Voucher No. 16, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Alexander Bell	Captain	$338.41	$338.41			Entitled to $40 per month for pay proper and $10 per month for command of company prior to July 1, and $60 per month pay proper and $10 per month for command of company after July 1, and to only $2.50 per month for servant's clothing for whole time. Short paid 50 cents per day subsistence after July 1. Short payments exceed overpayments.
2	John V. Stewart	First lieutenant.	306.07	306.07			$30 per month pay proper prior to July 1; $50 per month after July 1 $2.50 per month servant's clothing for whole time. Short paid in subsistence 50 cents per day after July 1. Short payments exceed over payments.
3	A. W. Miller	Second lieutenant.	289.90	289.00			$25 per month pay proper prior to July 1; $45 per month after July 1. Other remarks same as first lieutenant.
4	William Callahan	First sergeant	75.86		$75.86		
5	Francis B. Rass	Sergeant	66.16	66.16			
	Richard Watts	do					
6	James D. Foster	do	66.16		66.16		
	Theodore Lamb	Corporal					
7	Isaac Hatch	do	53.13		53.13		
8	D. C. Hasbrouch	do	53.13	53.13			
9	Benjamin Walker	do	53.13		53.13		
10	M. P. Allen	Private	46.56		46.56		
11	David Morrow	do	46.56	46.56			
12	Noah P. Suggs	do	46.56		46.56		
13	Noah Cason	do	46.56		46.56		
14	George P. Crooms	do	46.56		46.56		
15	James P. Callahan	do	46.56		46.56		
16	Samuel Callahan	do	46.56		46.56		
17	R. B. Forbes	do	46.56		46.56		Roll signed by attorney for R. B. Thomas, the captain certifying that there is no such man as Forbes in his company.
18	Paul Hatch	do	46.56		46.56		
19	Silas Hatch	do	46.56		46.56		
20	J. C. Hamilton	do	46.56	45.56			
21	William Lemacks	do	46.56	46.56			
22	Thomas Suggs	do	46.56		46.56		
23	Mitchel Lamb	do	46.56		46.56		
24	Mitchel Register	do	46.56	46.56			
25	J. T. Lee	do	46.56		46.56		
26	Jesse Lee	do	46.56		46.56		
27	H. F. Henderson	do	46.56		46.56		
28	James H. Keith	do	46.56	46.56			
29	Alfred Black	do	46.56		46.56		
30	Thomas Ferguson	do	46.56	46.56			
31	Archabal Hurst	do	46.56		46.56		

32	Abner Doliff	do	82.16		47.42	$34.74	$35.60 extra-duty pay not allowed; muster roll does not show him on extra duty; less 86 cents short paid in clothing.
33	Patrick Hagan	do	78.56		47.42	31.14	$32 extra-duty pay; same as above; less 86 cents short paid in clothing.
	William Howell	do					
34	James A. Threete	do	46.56	46.56			
35	Israel Mannin	do	46.56	46.56			
36	Rufus Hines	do	46.56	46.56			
37	H. G. W. Kelly	do	46.56	46.56			
38	Robert Wilson	do	46.56	46.56			
39	W. N. Foster	do	46.56		46.56		
40	Jacob Carter	do	46.56	46.56			
41	J. J. Whitefield	do	46.56		46.56		
42	Willey Kelly	do	46.56		46.56		
43	William Hatch	do	46.56	46.56			
44	Simeon Poucher	do	46.56	46.56			
45	Francis H. Gill	do	46.56	46.56			
46	William Cason	do	46.56		46.56		
47	James Rooks	do	46.56		11.24	35.32	Apprehended from desertion September 8, 1856, and entitled to pay only from that date.
48	James H. Cooper	do	46.56		46.56		
49	George W. Tillman	do	46.56	46.56			
50	Mathew D. Tillman	do	46.56	46.56			
51	M. Miller	do	46.56	46.56			
52	Sevin J. Ellis	do	61.81		61.81		
53	Jacob Davis	do	46.56	32.75		13.81	Pay and clothing for one month, $14.67, less 86 cents short paid in clothing, is disallowed. Muster roll shows him *discharged for one month.*
54	J. D. Frierson	do	46.56	46.56			
55	B. Whitehurst	do	46.56		46.56		
			3,526.62	1,971.08	1,440.53	115.01	

Muster roll is not certified by State agent.

EXHIBIT No. 34.

Statement of differences—Voucher No. 17, Abstract A.

No.	Names.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	
1	Thomas Hughey	Captain	$123.20	$123.20			Servant not described or charged for. Time overstated one day, but short paid 50 cents per day. Subsistence after July 1; also short paid for command of company, which is not charged for. Short payments exceed overpayments.
2	Eben F. Tucker	First lieutenant	108.53		$108.53		Time overstated one day, but short paid 50 cents per day in subsistence after July 1. Short payments exceed overpayments. No servant described or charged for.
3	Jackson Poole	Second lieutenant	101.20		101.20		Same as first lieutenant.
4	H. C. Hughes	First sergeant	34.83	34.05		$0.78	Overpaid 66 cents pay and 12 cents clothing. Receipted by H. H. Hughey.
5	B. F. Hull	Sergeant	30.66	29.71		.95	Overpaid 79 cents pay and 16 cents clothing.
....	J. W. Mason	do					
....	J. B. Poindexter	do					
6	John P. Ellis	Corporal	24.50	23.95		.55	Overpaid 37 cents pay and 18 cents clothing.
7	James M. Brown	do	24.50	23.95		.55	Do.
8	Wiley J. Brannen	do	24.50	23.95		.55	Do.
....	W. A. White	do					
9	James H. Hayes	Private	19.53		19.53		extension $2. Short paid $1.50. Overpaid 36 cents pay and 14 cents clothing, but short paid by error in
10	A. H. Brownlee	do	19.53	19.53			Do.
11	Edward Cosgrove	do	19.53	19.53			Do.
....	Charles Lynch	do					Do.
....	John Edwards	do					Do.
12	Thomas C. Wright	do	19.53	19.53			Do.
....	G. W. Corsey	do					Do.
....	Richard Allen	do					Do.
....	R. E. Randolph	do					Do.
....	Edward Lundy	do					Do.
13	Tillman Shaw	do	19.53	19.53			Do.
....	William Allison	do					Do.
14	E. W. Clyde	do	19.53	19.53			Do.
15	A. Scarborough	do	19.53	19.53			Do.
16	Thomas Hull	do	19.53	19.53			Do.
17	Jones Curry	do	19.53	19.53			Do.
18	William G. House	do	19.53	19.53			Do.
19	J. W. Barnes	do	19.53	19.53			Do.
20	Edward House	do	19.53	19.53			Do.
21	J. W. Harvey	do	19.53	19.53			Do.
22	Russell Curry	do	19.53	19.53			Do.
23	B. H. Hughey	do	19.53	19.53			Do.
....	Neil McKeever	do					Do.
24	N. B. Duke	do	19.53	19.53			Do.
			784.40	551.76	229.26	3.38	

Muster roll not certified by State agent.

EXHIBIT No. 35.

Statement of differences—Voucher No. 18, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Edward T. Kendrick	Captain	$399.27	$399.27			Overpaid two days in time, and servant's clothing overpaid. Short paid 50 cents per day in subsistence and $10 per month for command of company is not charged. Short payments exceed overpayments.
2	John Q. Stewart	First lieutenant	371.60	371.60			Same as captain (except for command of company).
3	Thomas B. Law	Second lieutenant	353.93	353.93			Same as first lieutenent.
4	John L. Peterson	First sergeant	98.05		$97.33	$0.72	Overpaid $1.33 pay, less 61 cents short paid in clothing.
5	Harrison Jones	Sergeant	46.04		46.04		
6	Hardie Raulerson	do	89.92		89.16	.76	Overpaid $1.10 pay, less 34 cents short paid in clothing.
7	Lafayette Tillis	do	89.92		89.16	.76	Do.
8	Evan C. McGeachy	Corporal	79.06		78.32	.74	Overpaid 86 cents pay, less 12 cents short paid in clothing.
9	William S. Richardson	do	41.33		41.38		
10	James W. Brewton	do	41.33		41.33		
11	Jeremiah Brown	Bugler	40.46		40.19	.27	Overpaid 40 cents pay, less 13 cents short paid in clothing.
12	William Brown	do	73.05		73.05		
13	Ambrose Woodman	F. and B	80.92		72.81	8.11	Overpaid difference between private and F. and B.; infantry not entitled to F. and B.
14	Allen, William	Private	86			.86	Paid on United States rolls for the day charged thereon.
15	Alcox, Jesse H	do	40.46		38.63	1.83	Overpaid in pay.
16	Brookes, William T	do	73.05		72.81	.24	Overpaid in pay 73 cents, less 49 cents short paid in clothing.
17	Brown, Bryant	do	.86			.86	Same as No. 14.
18	Brown, Francis M	do	.86			.86	Do.
19	Basset, John F	do	.86			.86	Do.
20	Dudley, James V. R	do	40.46		38.63	1.83	Overpaid in pay.
21	Davis, Thomas S	do	40.46		38.63	1.83	Do.
22	Goodwin, Merida M	do	73.05		72.81	.24	Overpaid in pay 73 cents, less 49 cents short paid in clothing.
23	Haskins, James B. T	do	73.05		72.81	.24	Do.
24	Howard, Seth	do	73.05		72.81	.24	Do.
25	Hicks, Richard T	do	.86			.86	Same as No. 14.
26	Hall, Jesse	do	40.46		38.63	1.83	Overpaid in pay.
27	Hagan, John	do	40.46		38.63	1.83	Do.
28	Hargrove, Clayton	do	40.46		38.63	1.83	Do.
29	Hogans, Tency	do	.86			.86	Same as No. 14.
30	Ivey, James I	do	73.05		72.81	.24	Overpaid 73 cents pay, less 49 cents short paid in clothing.
31	Johns, James R	do	73.05		72.81	.24	Do.
32	Jones, Mitchell	do	40.46		38.63	1.83	Overpaid in pay.
33	Kersh, Stephen	do	.86			.86	Same as No. 14.
34	Lenier, Lewis	do	73.05		72.81	.24	Overpaid 73 cents pay, less 49 cents short paid in clothing.
35	Lockhart, Joel L	do	73.05	72.81		.24	Do.
36	Lloyd, Isham	do	40.46		38.63	1.83	Overpaid in pay.
37	Mansell, Addison	do	73.05		72.81	.24	Same as Nos. 34 and 35.
38	McLeod, William	do	.86			.86	Same as No. 14.
39	Moore, Reiley	do	73.05		72.81	.24	Same as Nos. 34 and 35.
40	Rawlings, Thomas W	do	.86			.86	Same as No. 14.

Statement of differences—Voucher No. 18, *Abstract A*—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
41	Snowden, Edward	Private	$73.05		$72.81	$0.24	Same as Nos. 34 and 35.
42	Summerall, Henry	do	73.05	$72.81		.24	Do.
43	Stephens, Isham	do	.86			.86	Same as No. 14.
44	Stephens, Green	do	.86			.86	Do.
45	Thompson, Erasmus M	do	73.05		72.81	.24	Same as Nos. 34 and 35.
46	Whitehurst, Mayberry	do	.86			.86	Same as No. 14.
47	Webb, George	do	.86			.86	Do.
48	Wemble, James	do	40.46		38.63	1.83	Overpaid in pay.
49	Walker, Ezekiel	do	40.46		38.63	1.83	Do.
50	Weeden, Frederick	do	73.05		72.81	.24	Same as Nos. 34 and 35.
			3,243.36	1,270.42	1,928.74	44.20	

Mustered into United States service January 14, 1857, and paid by United States for day of muster.

EXHIBIT NO. 36.

Estimated amount—Voucher No. 19, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	John Addison	First lieutenant			$800.57		Pay and allowance, computed for 6 months, April 8 to October 7, 1856, inclusive.
2	John Conliff	Second lieutenant			770.57		Do.
3	David N. Townsend	First sergeant			215.75		
4	German H. Wyatt	Sergeant			197.51		
5	Cotton B. Rawles	do			197.51		
6	William H. Whitaker	Corporal			173.47		
7	John A. Addison	do			173.47		
8	William H. Vanderipe	do			173.47		
9	William H. Addison	Bugler			167.78		
10	David J. Addison	F. and B			161.22		Computed at private's rates; infantry not entitled to F. and B.
11	Addison, Joel I	Private			161.22		
12	Atgroth, Joseph	do			161.22		
13	Beggs, John	do			161.22		
14	Braden, Joseph H	do			161.22		
....	Branch Franklin	do					
15	Chairs, Furman	do			161.22		
16	Clark, Henry A	do			161.22		
17	Cole, Richard B	do			161.22		
18	Collins, George W	do			161.22		
....	Conliff, James	do					
19	Crawford, Cristopher Q	do			135.44		Computed from May 7, the date on which Nos. 52 to 59, inclusive, were mustered in, to October 7, inclusive.
20	Craig, John	do			161.22		
21	G[name illegible]	do			161.22		
22	Gawero, Michael	do			161.22		
23	Gibson, Jesse G	do			161.22		
24	Gilley, William T	do			161.22		
25	Glazier, Ezekiel	do			161.22		
26	Glazier, James A	do			161.22		
27	Goddard, Asa I	do			111.22		
28	Harrison, William H	do			161.22		
29	Hawkins, Daniel L	do			161.22		
30	Hunter, Nathaniel P	do			161.22		
31	Johnston, William H	do			161.22		
32	Johnston, Levin P	do			161.22		
33	Kennedy, George R	do			161.22		
34	Lee, Edmund	do			161.22		
35	Marr, Edmund	do			161.22		
36	McLean, John	do			161.22		
37	McNeill, Archibald	do			161.22		
38	Mirick, John C	do			161.22		
39	McMillan, Daniel	do			161.22		

Estimated amount—Voucher No. 19, *Abstract A*—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
40	Mateker, George	Private			$161.22		
41	Oglesby, Benjamin	do			161.22		
42	Oglesby, George W	do			161.22		
43	Peterson, Christian	do			161.22		
44	Peterson, Henry	do			161.22		
45	Rawles, William A. L	do			161.22		
46	Snell, Hampton V	do			161.22		
47	Vanderipe, James	do			161.22		
48	Weaver, Albert	do			161.22		
49	Williams, James G	do			161.22		
50	Woodruff, Joseph	do			161.22		
51	Wyatt, William H	do			161.22		
52	Allen, William Quin	do			135.44		Mustered into service May 7; pay computed to include October 7.
53	Barrow, Reuben T. B	do			135.44		Do.
54	Barrow, John B. W	do			135.44		Do.
55	Dugger, Isaac L	do			135.44		Do.
56	Garpet, Rodolphus	do			135.44		Do.
57	Johnston, Joshua M	do			135.44		Do.
58	Redd, David D	do			135.44		Do.
59	Redd, Isaac A	do			135.44		Do.
60	Smith, Isaiah	do			161.22		
			$10,232.43		10,860.27		

There being no pay roll of this company, pay has been computed for each man borne on the muster roll, except two, who are borne as having received commissions. The received estimated amount exceeds the amount claimed by $627.74; time allowed in computation of roll is six months, April 8 to October 7, inclusive, except where otherwise indicated.

EXHIBIT No. 37.

Estimated amount—Voucher No. 20, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.
1	John Parker*	Captain			$381.04	
2	William H. Whitaker	First lieutenant			338.91	
3	German H. Wyatt	Second lieutenant			327.57	
4	David Townsend	First sergeant			81.43	
5	Joseph Woodruff	Sergeant			74.57	
6	William Raulerson	do			14.07	
7	Ezekiel Glazier	Corporal			65.48	
8	William A. L. Rawls	do			65.48	
9	William Vanderipe	do			62.71	
10	John Addison	Bugler			63.32	
11	James Carliff	F. and B.†			60.85	
12	Addison, John A	Private			60.85	
13	Addison, William N	do			60.85	
14	Addison, Joel J	do			11.54	
15	Barrow, Reuben T	do			60.85	
16	Beggs, John A	do			60.85	
17	Beasely, Isaiah	do			11.54	
18	Brinkley, Nathan G	do			11.54	
19	Boyet, Henry	do			11.54	
20	Campbell, James R	do			11.54	
21	Collins, George W	do			60.85	
22	Cochran, Aaron C	do			60.85	
23	Craig, John	do			60.85	
24	Driggers, Mathew	do			60.85	
25	Driggers, Henry W	do			11.54	
26	Gates, Josiah	do			60.85	
27	Gawers, Michael	do			60.85	
28	Gilley, William T	do			60.85	
29	Gibson, Jesse	do			60.85	
30	Garbet, Rodolph	do			60.65	
31	Godard, Asa	do			60.85	
32	Green, James D	do			60.65	
33	Glazier, James	do			60.85	
34	Hawkins, Daniel	do			60.85	
35	Harrison, William H	do			11.54	
36	Hewit, Edward G	do			60.85	
37	Hooker, Stephen	do			60.85	
38	Johnston, William H	do			60.85	
39	Johnston, Levin P	do			60.85	
40	Lee, Edmund	do			60.85	
41	Marr, Edward	do			60.85	
42	Mink, John C	do			60.85	
43	McLean, John L	do			60.85	
44	Oglesby, Benjamin	do			60.85	
45	Oglesby, George	do			60.85	
46	Platt, William C	do			60.85	
47	Platt, Lewis B	do			60.85	
48	Platt, John	do			60.85	
49	Porter, James A	do			11.54	
50	Red, David D	do			60.85	
51	Smith, Isaiah	do			60.85	
52	Tison, George	do			60.85	
53	Tucker, George	do			11.54	
54	Vanderipe, James	do			60.85	
55	Williams, Joseph H	do			60.85	
56	Williams, James G	do			60.85	
57	Willingham, William	do			60.85	
58	Willingham, William H	do			60.85	
59	Wilkinson, Niel T	do			11.54	
60	Wyatt, William H	do			60.85	
			$4,556.59		4,023.98	$532.61

* Date of muster in is not stated in this case, but pay is computed from October 8. Date entered in pencil (November 18, 1856, but nothing to corroborate it.

† Computed as private.

Pay and allowances for officers and men on this roll computed from October 8 to December 15, inclusive. The 7th October is excluded, as that day has been allowed in computation of pay of Lieutenant Addison's company, in which these men served. See voucher 19.

EXHIBIT No. 38.

Estimated amount—Voucher No. 23, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.
1	R. B. Sullivant	Captain			$107.08	
2	William R. Gibbons	First lieutenant			90.42	
3	Joseph Underhill	Second lieutenant			86.25	
4	James A. Johnson	First sergeant			19.80	
5	H. S. Phillips	Sergeant			17.28	
6	Henry Sullivant	do			17.28	
7	Aaron Rials	do			17.28	
8	Jackson Sullivant	First corporal			13.92	
9	E. F. Billingsley	Corporal			13.92	
10	William Bird	do			13.92	
11	Jeremiah Underhill	do			13.92	
12	William Booth	Private			12.23	
13	O. F. Deklo	do			12.23	
14	S. R. Bearden	do			12.23	
15	Louis Green	do			12.23	
16	John Jones	do			12.23	
17	David Smith	do			12.23	
18	Louis W. Gleason	do			12.23	
19	Henry M. Sweet	do			12.23	
20	Edmund Sweat	do			12.23	
21	James Register	do			12.23	
22	Benjamin Lee	do			12.23	
23	John Sullivant	do			12.23	
24	Francis Sullivant	do			12.23	
25	Benjamin Wood	do			12.23	
26	Joseph Brooker	do			12.23	
27	E. J. Davis	do			12.23	
28	Jacob Drigors	do			12.23	
29	Jacob Burns	do			12.23	
30	Alexander Passmore	do			12.23	
31	John Sears	do			12.23	
32	Jackson Noles	do			12.23	
33	Isaiah Youngblood	do			12.23	
34	I. T. Nobles	do			12.23	
35	Dempsey Cain	do			12.23	
36	Louis Sehan	do			12.23	
37	W. C. Oberry	do			12.23	
38	Edward W. Ashley	do			12.23	
39	Nathan McCrancy	do			12.23	
40	James Booth	do			12.23	
41	William H. Branning	do			12.23	
42	Samuel Chaney	do			12.23	
43	W. W. Johnson	do			12.23	
44	B. W. Sullivant	do			12.23	
45	James Billingsley	do			12.23	
46	John Clark	do			12.23	
47	David Hagans	do			12.23	
48	Joseph Brookersen	do			12.23	
49	William Stanley	do			12.23	
50	James S. Gibbons	do			12.23	
51	George Rawls	do			12.23	
52	James Jones	do			12.23	
53	R. B. Roberts	do			12.23	
54	W. W. Shedd	do			12.23	
55	Z. J. Curry	do			12.23	
56	Alfred Taylor	do			12.23	
57	Hiram Bennet	do			12.23	
58	Willie Bennet	do			12.23	
59	A. J. Phillips	do			12.23	
60	Bryant Wilkinson	do			12.23	
61	Zachariah Polk	do			12.23	
62	James A. Green	do			12.23	
63	Jacob H. Varns	do			12.23	
64	John Mercer	do			12.23	
65	Andrew Davis	do			12.23	
66	John Phillips	do			12.23	
67	Henry McClanahan	do			12.23	
68	Robert Hampton	do			12.23	
69	Lewellin Sparkman	do			12.23	
			$809.15		1,120.41	

Pay is computed on this roll for twenty-five days, September 6 to 30, inclusive.

There is no pay roll and the muster roll (copy) is not certified by the State agent.

Pay is computed for each man named on the muster roll, and the estimated amount exceeds the amount claimed by $311.26; without the pay roll it can not be ascertained which of the men were and which were not paid.

EXHIBIT No. 39.

Statement of differences—Voucher No. 26½, Abstract A.

No.	Names.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Gilbert L. Key	First lieutenant & asst. surgeon.				$1,385.37	Pay and allowances for the period stated on F. and S. muster roll (copy) aggregate $1,385.37. There is no voucher or receipt to show that anything has been paid him.
2	John B. Eichelberger	do	$807.96	$780.34		27.62	Entitled to $33.33 per month pay proper and 20 cents ration prior to June 30, and to $53.33 per month pay proper and 30 cents ration after June 30, $2.50 per month for servant's clothing and $12 per month servant's pay. Overpayments exceed short payments.
3	James H. Peck	do	484.74	484.74			Short paid according to data given on F. and S. muster roll.
4	Elisha Carter	do				1,289.29	Pay and allowances for period stated on F. and S. muster roll aggregate $1,289.29, but there is no voucher or receipt to show that anything has been paid him.
5	George W. Price	do				683.66	Pay, etc., aggregate $683.66. Other remarks as above.
6	Franklin Branch	do				826.57	Pay, etc., aggregate $826.57. Other remarks as above.
7	Columbus R. Alexander	do				243.60	Pay, etc., aggregate $243.60. Other remarks as above.
8	Robert I. Kendrick	do				417.25	Pay, etc., aggregate $417.25. Other remarks as above.
9	Franklin Branch	do				353.82	Pay, etc., aggregate $353.82. Other remarks as above.
10	Columbus R. Alexander	do				348.74	Pay, etc., aggregate $348.74. Other remarks as above.
11	Joseph M. Taylor	Second lieutenant, a. q. m. and com'y.				317.05	Pay, etc., aggregate $313.05. Other remarks as above.
12	Samuel E. Hope	First lieutenant, a. q. m. and com'y.				623.32	Pay, &c., aggregate $623.32.
13	Francis B. Hagan	Sergeant, co. q. m. and com'y.					This man is borne and paid as a private on rolls of W. H. Hendrick's company (voucher No. 5).
14	M. Whit Smith	Colonel	1,076.39		1,075.40	99	Entitled to $75 per month pay proper and 20 cents ration prior to June 30, and to $95 per month and 30 cents ration after June 30, and servant's clothing and $2.50 per month for whole time. Overpayments exceed short payments. There is no muster roll or certificate connecting Col. Smith with the service paid for.
15	Edward R. Ives	Assistant quartermaster.	833.00		833.00		Entitled to $50 per month pay proper and 20 cents for ration prior to June 30, and to $70 per month and 30 cents ration after June 30. Servant's clothing at $2.50 per month and $12 per month servant's pay. Short payments exceed overpayments. No muster roll or certificate connecting this officer with the service.
16	Richard N. Jeffereys	Quartermaster's clerk.	370.00		367.50	2.50	Overpaid 1 day at $75 per month. Not borne on any muster roll and no certificate that the service was authorized or performed.
17	Perry G. Wall	Wagon master	85.33		85.33		Same as quartermaster's clerk.
				1,265.08	2,361.23	6,515.78	
						2,199.40	Amount unaccounted for.
	Total amount claimed on Abstract A for Voucher No. 26½ is.		12,341.49	1,265.08	2,361.23	8,715.18	

EXHIBIT No. 40.

WAR DEPARTMENT,
Washington City, March 27, 1882.

SIR: The accompanying Abstract B, with vouchers, submitted to this Department under the provisions of the joint resolution of March 3, 1881, pertaining to the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, are, by direction of the Secretary of War, respectfully referred to you for investigation and report as soon as practicable. The report will be so framed as to show what expenditures were properly made and what is the evidence of such expenditures, what amounts should be accepted as reasonable charges at the date and locality when and where the vouchers were issued, what vouchers are defective, and generally to exhibit the correctness of the claims submitted.

The joint resolution to which reference is made will be found on p. 520, Vol. 21, of the United Statutes at Large.

Very respectfully,

JOHN TWEEDALE,
Acting Chief Clerk.

To the COMMISSARY-GENERAL OF SUBSISTENCE.

EXHIBIT No. 41.

WAR DEPARTMENT,
OFFICE COMMISSARY-GENERAL OF SUBSISTENCE,
Washington, D. C., May 19, 1882.

SIR: I have the honor to return herewith the papers relating to the claim of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, which were referred to the Commissary-General of Subsistence for investigation and report.

The accompanying statement shows the errors, irregularities, etc., found existing in the abstracts and vouchers pertaining to the Subsistence Department of the Army in said claim.

The prices charged for the several articles enumerated in the accompanying vouchers are considered high as compared with the prices charged by the Subsistence Department for similar articles at the date and near the locality when and where the vouchers were issued.

The following is a list of prices taken from the official papers of officers doing duty in this Department at Forts Brooke, Deynaud, and Myers at that time, viz:

Bread, per pound	$0.06
Pork, per pound	10
Fresh beef, per pound	05
Rice, per pound	06½
Beans, per pound	05
Coffee, per pound	12
Soap, per pound	08
Sugar, per pound	08
Sweet potatoes	.....
Potatoes, per bushel	1.50
Corn meal	.....
Bacon, per pound	13
Flour, per barrel	10.00
Liverpool salt, per quart	01½
Salt, per quart	01½
Mustard	.....
Pepper, per pound	25
Candles, per pound	32
Vinegar, per gallon	13½

In this connection it is remarked that these were the cost prices of the stores to the Subsistence Department at the principal purchasing depots, such as New York, New Orleans, and Charleston, and that they were sold in Florida to officers and issued to hospitals without cost of transportation added, fresh beef and potatoes excepted. The only evidence this office has of the correctness of the expenditures is the vouchers themselves.

Very respectfully, your obedient servant,

R. MACFEELY,
Commissary-General Subsistence.

The Hon. SECRETARY OF WAR.

EXHIBIT No. 42.

Statement showing the errors, irregularities, etc., found existing in the abstracts and vouchers pertaining to the Subsistence Department in the claim of the State of Florida for expenditures made in suppressing Indian hostilities in that State between December 1, 1855, and January 1, 1860.

ABSTRACT B.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Vouchers missing.	Vouchers not receipted.	Errors in computation.	Vouchers receipted by administrators or attorneys; no letters of administration or powers of attorney filed.	Purchased of company commander.	Not authorized by regulations.	Remarks.
27	F. M. Durrance	1	William Brown				$27.95			
		7	Charles W. Downing	$9.33						
		27	Alderman Carlton				21.60			
		28	T. W. W. Hill				16.55			
		32	T. Underhill	121.59						
		36	W. D. K. Pollard	24.75						
		41	W. P. Brooker	99.84						
		29	F. M. Durrance					$255.83		Par. 904, Army Regulations, 1857. Taken up on abstract: Voucher 18: pork, 40 pounds, should be 45 pounds; voucher 29: pork, 1,994 pounds, should be 1,944 pounds; voucher 36: beans, 35 quarts, should be 37½ quarts.
28	do	52	A. Carlton				163.77			
		53	T. W. W. Hill				15.00			Administrator is also certifying officer.
		55	James Howell	20.00						
		56	F. M. Durrance					50.00		
29	do	71	Joseph Howell	17.50						
										Taken up on Abstract F: Beef, 365 pounds, should be 563 pounds. [This error is corrected on quarterly abstract.]
31	W. H. Kendrick	5	W. H. Kendrick					96.25		Par. 904, Army Regulations, 1857.
32	do	7	F. C. M. Boggus	32.00						
		8	T. A. Hendry	23.00						
		9	I. A. Boyet				75.00			
33	do	12	Joseph Hale				64.25			
		13	do				11.50			
36	A. D. Johnson	5	J. J. Bryant	2.00						
		6	Joseph Weeks				75.20			

Statement showing the errors, irregularities, etc., found existing in the abstracts and vouchers pertaining to the Subsistence Department, etc.—Continued.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Vouchers missing.	Vouchers not receipted.	Errors in computation.	Vouchers receipted by administrators or attorneys; no letters of administration or powers of attorney filed.	Purchased of company commander.	Not authorized by regulations.	Remarks.
37	A. D. Johnson	7	A. D. Johnson					$712.10		
		10	E. B. Phelps		$20.80					
38	do	1	A. D. Johnson					47.05		
		4	Joseph Howell		16.80					
39	L. G. Lesley	5	W. J. Whidden	$5.44						
40	do	9	W. H. Wyatt				$17.55			
		11	S. B. McGuire	21.08						
41	do	14	L. G. Lesley				32.50			Moreover purchased of captain of company.
		19	D. Sumerall	1.96						
		21	L. Mozill	1.96						
		22	W. H. Willingham	3.87						
		24	I. Widden	3.87						
		25	I. Alderman	1.96						
		30	W. Willingham	3.87						
		31	Z. Seward	3.87						
		34	W. Varnes	3.87						
42	John McNeill	1	John McNeill					12.84		
		4	William Brown				12.84			
		5	R. E. Osburn				12.84			
		8	Edward Boyett	12.84						
		12	H. I. Banknight				12.84			
		25	J. M. Johnson		12.84					That is receipted in blank.
		26	J. McNeill, jr	12.84						
43	do	3	Joseph Hale	10.00						
		4	Albert Clark	4.10						
		6	John McNeill					27.96		
45	John Addison	1	John Addison					95.67		
		2	W. M. Wyatt				26.80			
47	S. L. Sparkman	5	A. J. Rowe	9.44						
		26	John Thomas	8.84½						
		32	James M. Harris	6.53½						
		44	F. Matheny (?)	4.09½						
		46	M. Flint	2.85½						
		52	G. McLelland				2.85½			

		53	O. P. Mason	2.85¼						
		54	Richard Gainy	2.85¼						
		55	A. J. McKinny		2.85¼					
		58	Sally Franklin				2.85⅝			
		65	Abraham Simmons	2.85¼						
		67	William Carney	2.85¼						
		72	Henry Frin	2.85¼						
		78	T. H. Rushing	1.11						
		79	N. K. Sparkman	1.11						
		80	J. Summerlin	1.11						
		81	J. McLelland	1.11						
		82	W. I. Rushing	1.11						
		83	W. I. Nuley	1.11						On abstract.—Candles taken up per vouchers 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20, 11½ pounds each, should be ½ pound each voucher. Voucher 59 is not certified on abstract. Pork taken up per voucher 66, 1¼ pounds, should be 11¼ pounds. Rice taken up per voucher 85, 9½ pounds, should be 2 1/32 pounds, 9¼ cents added to amount of abstract, etc. Amount of abstract, $450.96¾, should be $151.06. Footing of abstract: bread, 2,356 pounds, should be 2,401 pounds; vinegar, 23 gallons, 5 quarts, 2 gills, should be 23 gallons, 3 quarts, and 4 gills.
48	Jesse Carter	11	E. G. Rogers & Co		858.00					This is merely an invoice, having none of the essentials of a voucher for the payment of money.
		24	do	2,120.56						
		25	do		467.05					This is merely an invoice, having none of the essentials of a voucher for the payment of money.
49	Post and Mel		Post and Mel		1,955.21					Do.
50	Jesse Carter	61	do		2,162.61					Do.
		78	do		1,735.93					Do.
51	do	105	do		2,202.81					Do.
		117	James McKay						26.85	Articles purchased not component parts of the ration.
		135	M. C. & J. W. Brown						124.98	Amount of voucher, $534.66, should be $409.68; this, after deducting $124.98, not pertaining to the Subsistence Department.
52	do	197	do						25	Mustard purchased by this voucher not a component part of the ration.
			Miscellaneous: vouchers as follows, viz:							
		1	E. C. Rogers & Co		2,140.69					An invoice of stores, amounting to a total of $3,165.38, including insurance, drayage, etc., the subsistence portion of which, *not* including 1 platform scale, is $2,140.69.
	C. H. Austin, treasurer State of Florida.	2	A. L. Caruthers						1,514.52	This account is from July 22 to Oct. 27, 1849. The resolution of Congress does not authorize the account for 1849 to be included.

Statement showing the errors, irregularities, etc., found existing in the abstracts and vouchers pertaining to the Subsistence Department, etc.—Continued.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Vouchers missing.	Vouchers not receipted.	Errors in computation.	Vouchers receipted by administrators or attorneys; no letters of administration or powers of attorney filed.	Purchased of company commander.	Not authorized by regulations.	Remarks.
	M. W. Smith, commanding special battalion, Florida Volunteers.	3	Sylvester Bryant, jr						$16.40	
	Jesse Carter	4	W. M. Johnson						6.00	Receipt for subsistence furnished; no itemized account.
	Gen. M. W. Smith, R. N. Jeffreys, A. A. Q. M.; Col. E. R. Ivers.	5	City Hotel, Tallahassee.						42.00	Not authorized by regulations.
	Gen. Carter	6	City Hotel						24.13	Receipt to a General Carter for board of a Mr. Chaseborough; not authorized by regulations.
	Amounts			$2,614.79½	$11,575.59½		$531.89½	$1,297.72	1,755.13	

RECAPITULATION.

Amount of Abstract B, as per footing	$23,474.90	
Amount of Abstract B, as per abstracts and miscellaneous vouchers		$23,836.35
Add for error in footing of Abstract No. 47, 9½ cents		.09½
		23,836.44½
Amount of vouchers purchased of company commander	1,297.72	
Amount of vouchers missing	2,614.79½	
Amount of vouchers not receipted	11,675.59½	
Amount of vouchers receipted by administrator	531.89½	
Amount of vouchers, unauthorized expenditures	1,755.13	
		17,775.13½
Correct total of Abstract B		6,061.31

EXHIBIT No. 43.

WAR DEPARTMENT,
Washington City, March 27, 1882.

SIR: The accompanying Abstracts C, D, E, F, and I, with vouchers, submitted to this Department under the provisions of the joint resolution of March 3, 1881, pertaining to the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, are, by direction of the Secretary of War, referred to you for investigation and report as soon as practicable.

The report will be so framed as to show what expenditures were properly made and what is the evidence of such expenditures; what amounts should be accepted as reasonable charges at the date and locality when and where the vouchers were issued; what vouchers are defective, and generally to exhibit the correctness of the claims submitted.

The joint resolution to which reference is made will be found on page 520, Vol. 21, of the United States Statutes at large.

Very respectfully,

JOHN TWEEDALE,
Acting Chief Clerk.

To the QUARTERMASTER-GENERAL.

EXHIBIT No. 44.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, April 20, 1882.

SIR: I have the honor to return herewith the papers relating to the claim of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, which were referred to the Quartermaster-General on March 27 and April 10, 1882, for investigation and report.

The papers submitted consist of Abstracts C, D, E, F, H, and I, with vouchers, and four (4) separate accounts, as follows, viz:

Abstract C, forage, amounting to	$42,279.52
Abstract D, transportation, amounting to	19,843.28
Abstract E, camp and garrison equipage, amounting to	193.81
Abstract F, quartermaster's stores, amounting to	589.67
Abstract H, contingent for troops, amounting to	10,332.84
Abstract I, stationery, amounting to	111.11
Account of J. M. Cooper, services, amounting to	7.50
Account of J. A. Garrard, services, amounting to	22.00
Account of Fred'k Lykes, rent, amounting to	5.00
Account of P. G. Wall, rent, amounting to	31.25
Total amount claimed	73,415.98

The abstracts and vouchers have been carefully examined in this office, and all errors, irregularities, etc., found existing therein are noted in the inclosed statement, numbered 1.

The inclosed statement numbered 2 shows the prices paid for forage by officers of the quartermaster's department on duty in Florida, and contains the only data the records of this office afford from which a comparison of prices can be made.

From this statement, I think that the price paid by the State of Florida for forage may be accepted as reasonable.

As the supplies and stores for United States troops in Florida were mostly drawn from New Orleans and the North, it seems impracticable for this office from its records to make a comparison of the prices paid by the United States with the prices paid by the State of Florida for all the different items of expenditure as charged in the vouchers.

The items embraced in Abstract D are for transportation by land and water, but mainly for hire of teams. The prices and rates charged seem reasonable, but the records here afford no data from which a strict comparison can be made.

Many of the items charged for under the head of camp and garrison equipage, Abstracts E and F, are articles which were not furnished and issued by the United States to its troops. But the prices charged do not, under the circumstances, seem unreasonable.

Abstract H covers expenditures of a miscellaneous nature, such as hire of employés advertising, printing, wharfage, etc., and the prices charged do not seem excessive.

Abstract I, being expenditures for stationery, the prices paid are not considered excessive.

The expenditures which seem to have been properly made are supported by vouchers issued by officers of the Florida Volunteers and by Jesse Carter, special agent of the State, which I think may be accepted as reasonable charges, and are in amount as follows:

Abstract C	$34,669.74
Abstract D	17,247.39
Abstract E	98.59
Abstract F	395.16
Abstract H	9,015.81
Abstract I	10.10
Account of J. M. Cooper	7.50
Total	61,444.29

I also submit a list of all officers of the Army on duty in the quartermaster's department in Florida from 1855 to 1860 (numbered 3), so far as shown by the records of this office, from whose accounts on file in the Treasury Department further information as to prices and rates paid may be obtained.

I am, very respectfully, your obedient servant,

RUFUS INGALLS,
Quartermaster-General, Brevet Major-General, U. S. Army.

The Hon. SECRETARY OF WAR.

EXHIBIT No. 45.

No. 1.—*Statement showing the errors, irregularities, etc., found existing in the abstracts and vouchers pertaining to the Quartermaster's Department in the claim of the State of Florida for expenditures made in suppressing Indian hostilities in that State between December 1, 1855, and January 1, 1860.*

ABSTRACT C.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.	Remarks.
54	F. M. Durrance	7	Charles W. Downing	$36.00			
54	do	38	W. D. K. Pollard	84.00			
54	do	47	Rigdon Brown	218.00			
54	do					*$2.00	Error in addition; amount to be added to Abstract C.
55	do	66	W. D. K. Pollard	46.50			
57	do	15	W. P. Brooker	12.50			
57	do					*1.00	Error in addition; to be deducted from Abstract C.
59	W. H. Kendrick	4	Margaret Tyner	37.50			
59	do	11	W. R. Overstreet	15.00			
60	do	17	N. Bovet	117.40			
60	do	21	F. B. Hagin	46.50			
63	A. D. Johnson	7	J. J. Bryant	7.00			
63	do	8	B. W. Crews	68.75			
64	do	14	J. A. Alexander	81.25			
64	do	18	E. B. Phelps	11.75			
66	L. G. Lesley	9	W. J. Whidden	3.00			
66	do	16	M. Alderman	3.00			
68	do	29	W. H. Willingham	6.00			
68	do	31	William Willingham	6.00			
68	do	34	J. Whidden	6 00			
68	do	37	Andrew Wiggins	4.50			
68	do	47	Owen Blount	15.00			
68	do	48	D. Summerall	3.00			
68	do	51	J. Hamilton	3.00			
68	do	54	L. Mizzel		$3.00		
69	John McNeil	8	Edward Boyes	33.12			
69	do	26	John McNeil, jr	33.12			
70	do	1	Albert Clark	8.40			
73	S. L. Sparkman	6	O. P. Majors	$7.93			
73	do	8	A. J. McKinney	7.93			
73	do	10	Richard Gainey	7.93			
73	do	19	Abram Simmes	7.93			

* Error on abstract.

No. 1—*Statement showing the errors, irregularities, etc., pertaining to the Quartermaster's Department, etc.*—Continued.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.	Remark.
73	S. L. Sparkman	21	William Carney	$7.93			
73	do	24	Martin Flint	7.93			
73	do	47	A. J. Rowe	26.57½			
73	do	64	—— Mather	11.66			
73	do	67	Joseph M. Harris	19.09½			
73	do	73	M. K. Sparkman	3.18			
73	do	77	W. W. Rushing	3.18			
73	do	79	W. I. Neeley	$3.18			
73	do	1	W. W. Smith			$0.07	Underpaid.
73	do	2	Baxter Smith			.07	Do.
73	do	3	George Simmons			.07	Do.
73	do	4	Marshall Simmons			.07	Do.
73	do	5	Peter Platt			.07	Do.
73	do	7	G. McClelland			.07	Do.
73	do	9	John W. Hawkins			.07	Do.
73	do	11	John M. Fritch			.07	Do.
73	do	12	George Franklin			.07	Do.
73	do	13	Sally Franklin			.07	Do.
73	do	14	Henry Dees			.07	Do.
73	do	15	John Collins			.07	Do.
73	do	16	W. J. Campbell			.07	Do.
73	do	17	J. C. Bryant			.07	Do.
73	do	18	F. M. Bryant			.07	Do.
73	do	20	George W. Smith			.07	Do.
73	do	22	H. M. Lanier			.07	Do.
73	do	23	William M. Blocker			.07	Do.
73	do	25	Henry Frier			.07	Do.
73	do	26	Samuel A. Wells			.07	Do.
73	do	27	Henry Sylvester			.07	Do.
73	do	66	A. B. Robertson			.01½	Do.
73	do	68	T. C. Pierce			.01½	Do.
73	do	69	S. T. Hollingsworth		$19.09½	01½	Do.
73	do	70	R. V. Buffum			01½	Do.
73	do	71	Stephen Hollingsworth			01½	Do.
73	do	72	Timothy Hollingsworth			01½	Do.
73	do	85	C. Zebenden			37½	Do.
73	do	58	Samuel J. Rogers		11.66		Receipt signed by Samuel J. Bogus.
73	do					*29.90	Error in addition; to be deducted from Abstract C.
74	do	1	Hardy Collins		18.11½		
74	do	2	R. H. Lanier		23.91		

74	do	3	W. T. Rushing		23.91		
75	Jesse Carter	11	E. G. Rogers & Co		636.85		
75	do	24	do	†641.72			
75	do	61	Post & Mel	‡324.00			
77	do	105	do	§350.12			
77	do	107	S. L. Sparkman	150.00			
77	do	154	James McKay			2.19	Underpaid.
79	do		A. Jerrigan	4,410.77			
79	do					*54.00	Error in carrying amount of subvoucher, favor of A. L. Caruthers; the amount to be added to Abstract C.
	Totals Abstract C			6,897.34	737.54	4.12½	

*Error on abstract.
(In pencil:) †Appears to be an invoice Is not a voucher for the payment of money. Paper found and placed with voucher 75, Abstract C.
(In pencil:) ‡Invoice. Not a voucher for payment of money. Paper with voucher 50, Abstract B.
(In pencil:) §Invoice. Not a voucher. Paper with voucher 51 B.

RECAPITULATION OF ABSTRACT C.

Total amount of Abstract C		$42,279.52
Errors in voucher to be added		56.00
		42,335.52
Errors in vouchers to be deducted		30.90
		42,304.62
Total amount of missing subvouchers	$6,897.34	
Amount of subvouchers not receipted	737.54	
		7,634.88
Correct total of Abstract C		34,669.74

No. 1—*Statement showing the errors, irregularities, etc., pertaining to the Quartermaster's Department, etc.*—Continued.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.	Remark.
73	S. L. Sparkman	21	William Carney	$7.93			
73	do	24	Martin Flint	7.93			
73	do	47	A. J. Rowe	26.57½			
73	do	64	—— Mather	11.66			
73	do	67	Joseph M. Harris	19.09½			
73	do	73	M. K. Sparkman	3.18			
73	do	77	W. W. Rushing	3.18			
73	do	79	W. I. Neeley	$3.18			
73	do	1	W. W. Smith			$0.07	Underpaid.
73	do	2	Baxter Smith			.07	Do.
73	do	3	George Simmons			.07	Do.
73	do	4	Marshall Simmons			.07	Do.
73	do	5	Peter Platt			.07	Do.
73	do	7	G. McClelland			.07	Do.
73	do	9	John W. Hawkins			.07	Do.
73	do	11	John M. Fritch			.07	Do.
73	do	12	George Franklin			.07	Do.
73	do	13	Sally Franklin			.07	Do.
73	do	14	Henry Dees			.07	Do.
73	do	15	John Collins			.07	Do.
73	do	16	W. J. Campbell			.07	Do.
73	do	17	J. C. Bryant			.07	Do.
73	do	18	F. M. Bryant			.07	Do.
73	do	20	George W. Smith			.07	Do.
73	do	22	H. M. Lanier			.07	Do.
73	do	23	William M. Blocker			.07	Do.
73	do	25	Henry Frier			.07	Do.
73	do	26	Samuel A. Wells			.07	Do.
73	do	27	Henry Sylvester			.07	Do.
73	do	66	A. B. Robertson			.01½	Do.
73	do	68	T. C. Pierce			.01½	Do.
73	do	69	S. T. Hollingsworth		$19.09½	01½	Do.
73	do	70	R. V. Buffum			01½	Do.
73	do	71	Stephen Hollingsworth			01½	Do.
73	do	72	Timothy Hollingsworth			01½	Do.
73	do	85	C. Zebenden			37½	Do.
73	do	58	Samuel J. Rogers		11.66		Receipt signed by Samuel J. Rogus.
73	do					*29.90	Error in addition; to be deducted from Abstract C.
74	do	1	Hardy Collins		18.11½		
74	do	2	R. H. Lanier		23.91		

EXHIBIT No. 45—Continued.

ABSTRACT F.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.
97	Jesse Carter	131	W. G. Ferris & Son	$55.56		
98	W. Smith	B. L.	Post & Mel		$138.95	
	Totals Abstract F			55.56	138.95	

RECAPITULATION OF ABSTRACT F.

Total amount of Abstract E		$589.67
Amount of missing subvouchers	$55.56	
Amount of vouchers not receipted	138.95	
		194.51
Correct total of Abstract F		395.16

ABSTRACT H.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.
105	Jesse Carter	11	E. G. Rogers & Co	$65.36		
105	do	24	do	*198.10		
105	do	25	do	122.07		
106	do	60	Post & Mel		$310.75	
106	do	62	do	1.65		
106	do	78	do	204.60		
107	do	104	do		289.50	
108	do	177	E. E. Barry			†$13.32
109	do	2	William Dudley	125.00		
	Totals Abstract H			716.78	600.25	13.32

*(In pencil): Appears to be an invoice: is not a voucher for the payment of money; papers found and placed with voucher 75, Abstract C.
† Underpaid.

RECAPITULATION OF ABSTRACT H.

Total amount of Abstract H		$10,332.84
Amount of missing subvouchers	$716.78	
Amount of subvouchers not receipted	600.25	
		1,317.03
Correct total of Abstract H		9,015.81

EXHIBIT No. 45—Continued

ABSTRACT I.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.
115	Jesse Carter	61	Post & Mel	*$44.10		
115	do	92	do		$50.00	
117	W. Smith		James S. Turner		6.91	
	Totals Abstract I			44.10	56.91	

* (In pencil): Invoice; not a voucher for the payment of money; paper with voucher 50, Abstract B.

RECAPITULATION OF ABSTRACT I.

Total amount of Abstract I		$111.11
Amount of missing subvouchers	$44.10	
Amount of subvouchers not receipted	56.91	
		101.01
Corrected total of Abstract I		10.10

NOTE.—The sum of the errors noted under head of "Errors in computation," in foregoing statement, being in favor of the State of Florida, has not been added to the amount of the claim, for the reason that the vouchers in which such errors occur have been paid at the amount shown on their face.

SEPARATE ACCOUNTS.

In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.
Jacob A. Garrard		$22.00	
Frederick Lykes		5.00	
Perry G. Wall		31.25	
Total amount of accounts not receipted		58.25	

RECAPITULATION.

Amount of Abstract C, as stated	$42,279.52	As corrected	$34,[illegible].74
Amount of Abstract D, as stated	19,843.28	As corrected	17,247.30
Amount of Abstract E, as stated	193.81	As corrected	98.50
Amount of Abstract F, as stated	589.67	As corrected	395.16
Amount of Abstract H, as stated	10,332.84	As corrected	9,115.81
Amount of Abstract I, as stated	111.11	As corrected	10.10
Amount of account favor of J. M. Cooper	7.50	As corrected	7.50
Amount of account favor of J. A. Garrard	22.00	As corrected	0.00
Amount of account favor of Frederick Lykes	5.00	As corrected	0.00
Amount of account favor of Perry H. Wall	31.25	As corrected	0.00
Total	73,415.98	As corrected	61,444.29

EXHIBIT No. 46.

No. 2.—*Comparative statement of prices paid for forage by the State of Florida and by the Quartermaster's Department of the Army in that State, so far as the records of the Quartermaster-General's Office show.*

Date of purchase.	Corn.		Oats.		Hay.		Fodder.		Place of purchase by Quartermaster's Department.
	Price paid by State.	Price paid by Quartermaster's Department.	Price paid by State.	Price paid by Quartermaster's Department.	Price paid by State.	Price paid by Quartermaster's Department.	Price paid by State.	Price paid by Quartermaster's Department.	
	Per bush.	*Per bush.*	*Per bush.*	*Per bush.*	*Per 100 lbs.*	*Per 100 lbs.*	*Per 100 lbs.*	*Per 100 lbs.*	
1855, fourth quarter	$1.25, $1.40, $1.50, and $2.	$1.62½	$1	$1.12½	$1.50 and $2	$1.75	$1.50 and $2	None	Key West.
1856, first quarter	87½c., $1.50, and $2.	$1.50	90c	87c	$1.50 and $2	$1.25	$1.50 and $2	None	Do.
1856, second quarter	53c., $1, $1.25, $1.37½, $1.50, and $2.	$1.50	80c., 90c., and $1.	87c. to $1	$1.50	$1.25	$1.50 and $2	None	Do.
1856, third quarter	50c., 62½c., 80c., 90c., $1, $1.12½, $1.25, $1.37½, and $1.50.	None	None	None	$1.50, $2, and $2.50.	None	$1.25, $1.50, and $2.	None	
1856, fourth quarter	85c., $1, $1.10, $1.12½, $1.25, and $1.50.	None	None	None	$1 and $1.50	None	$1, $1.25, $1.50, and $2.	None	
1857, first quarter	$1.25	None	$1	None	None	None	None	None	
1857, fourth quarter	None	$1.25	None	$1	None	None	None	None	Fort Brooke.
1859, fourth quarter	$1.50	None	None	None	None	None	$2	None	

EXHIBIT No. 47.

No. 3.—*List of officers on duty in the Quartermaster's Department of the Army in Flori from December* 1, 1855, *to January* 1, 1860.

Station.	Names.	Date.
Apalachicola Arsenal.	J. R. Hanhan	April 1, 1857.
	F. C. Humphreys	April 1, 1858.
Camp Alifaya	Lieut. J. J. Dana	January 14, 1857.
Fort Brooke	Maj. J. M. McKinstry	March 31, 1856, to December 31, 1857.
	Lieut. T. M. Vincent	September 30, 1855.
Barrancas Barracks	Lieut. A. G. Beckwith	June 30, 1858.
	Lieut. J. H. Gilman	August 5, 1859.
Fort Center	Lieut. A. J. S. Molinard	First quarter. 1856.
	Lieut. T. Grey	February 20. 1856.
	Lieut. A. S. Webb	March 23, 1856.
	Lieut. H. A. Hascall	January 11, 1857.
	Capt. De Russey	February 28, 1857.
	Lieut. G. T. Goode	June 24, 1857.
	Lieut. R. Canova	September 10, 1857.
	Lieut. J. G. Haddock	November, 1857.
	Lieut. E. R. Cheesborough	Do.
	Lieut. W. W. Franklin	March 4, 1858.
	Lieut. Isaac Reed	March 19, 1858.
Fort Cross	Lieut. W. S. Abert	First quarter, 1857.
	Lieut. R. Loder	May 31, 1857.
	Capt. McCown	June 30, 1857.
Fort Dallas	Lieut. J. W. Robinson	Third and fourth quarters, 1855.
	Lieut. L. O. Morris	Do.
	Lieut. W. W. Graham	February 14, 1856.
	Lieut. O. H. Tillinghast	October 2, 1856.
	Lieut. T. Talbott	December 3, 1857.
	Lieut. J. W. Turner	March 10, 1858.
Drum, Simon	Lieut. L. L. Langdon	First quarter, 1856.
	Lieut. T. Greble	May 10, 1856.
Fort Deynand	Lieut R. B. Thomas	December 31, 1885.
	Lieut. F. H. Larned	Do.
	Lieut. J. H. Wheelock	November 11, 1856.
	Lieut. C. L. Best	December 26, 1857.
	Lieut. T. W. Brevard	September 15, 1857.
	Lieut. Isaac Reed	November 24, 1857.
Fort Dulaney	Lieut. W. S. Abert	Fourth quarter, 1856.
	Lieut. B. Wingate	January, 1857.
	Lieut. E. M. Hudson	January, 21, 1857.
	Lieut. J. H. Wright	Do.
	Lieut. F. A. Shoup	
Key West	Lieut. A. Smead	June 15, 1855.
	Lieut. A. Beckwith	October 24. 1856, to December 31, 1857.
	Lieut. J. M. Brannan	May 31, 1858, to May 31, 1859.
	Lieut. C. H. Webber	June 16, 1858, to November 30, 1859.
	Lieut. A. R. Eddy	April 1, 1859.
	Lieut. A. C. Gillem	April 30, 1861.
Fort Kissemme	Lieut. D. D. Perkins	First quarter. 1857.
	Lieut. W. R. Terrill	May 31, 1857.
	Lieut. J. R. Waddy	August 31, 1857.
Fort McRae	Lieut. W. R. Terrill	
	Lieut. S. H. Weed	
	Lieut. E. McK. Hudson	March 23, 1857.
	Lieut. E. H. Broady	December 31, 1857.
Fort Myers	Lieut. J. M. Robinson	1855.
	Maj. J. McKinstry	December 29, 1855.
	Capt. W. S. Hancock	First quarter, 1856.
	Capt. De Russy	June 30, 1857.
	Capt. Van Bockelin	October 26, 1857.
Mellowville	Lieut. J. McL. Taylor	June 10, 1856.
	Capt. De Russy	December 31, 1856, to January 14, 1857.
	Lieut. A. L. Magilton	
	Lieut. O. F. Solomon	July 10, 1859.
Monatee	Lieut. F. J. Greble	September 30, 1856.
	Lieut. J. J. Dana	November 22, 1856.
	Lieut. F. M. Follett	December 15, 1856.
Fort Pickens	Lieut. J. McL. Taylor	November 17, 1855.
	Lieut. A. Merchant	April 2, 1856.
	Lieut. G. T. Balch	November 24, 1856.
	Capt. L Newton	June 30, 1857.
	Lieut. A. Beckwith	June 30, 1858.
	Lieut. J. H. Gilman	
	Lieut. L. L. Langdon	April 21, 1861.
Camp Rogers	Lieut. F. Rawlerson, Florida Vols	
	Lieut. I. Fink	November 18, 1857.
	Lieut. I. G. N. Price, Florida Vols	January 9, 1858.
	Lieut. Thomas Barco, Florida Vols	February 6, 1858.
Camp Snead	Lieut. F. M. Follett	December 13, 1856.

EXHIBIT No. 48.

WAR DEPARTMENT,
Washington City, March 27, 1882.

SIR: The accompanying Abstract G, with vouchers, submitted to this Department under the provisions of the joint resolution of March 3, 1881, pertaining to the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, are, by the direction of the Secretary of War, respectfully referred to you for investigation and report as soon as practicable.

The report will be so framed as to show what expenditures were properly made, and what is the evidence of such expenditures; what amounts should be accepted as reasonable charges at the date and locality when and where the vouchers were issued; what vouchers are defective, and generally to exhibit the correctness of the claims submitted.

The joint resolution to which reference is made will be found on page 520, Vol. 21, of the United States Statutes at Large.

Very respectfully,

JOHN TWEEDALE,
Acting Chief Clerk.

To the CHIEF OF ORDNANCE.

EXHIBIT No. 49.

ORDNANCE OFFICE, *April* 15, 1882.

Respectfully returned to the Secretary of War.

* * * * * * *

These purchases were made between March and December, 1856, by Jesse Carter, special agent of Florida, for the use of the mounted Florida volunteers. The ordnance property returns of the Florida volunteers show that their supplies of ordnance stores were drawn from Bvt. Col. John Munroe, U. S. Army, at Fort Brooke, Fla. The property returns of Bvt. Col. John Munroe, U. S. Army, and the officers of the Florida volunteers, covering a period from 1856 to 1860, have been examined, but no part of the above-named property has been accounted for thereon. No returns have been made by the State of Florida, or by Jesse Carter, special agent. No purchases of similar stores were made by this Department in Florida in 1856, but purchases were made in that year in New York of musket powder, at 20 cents per pound, and percussion caps, at $1.35 per thousand. No lead was purchased by the Department in 1856, but the lead on hand at that time for issue to troops was inventoried at 6 cents per pound, so that it appears that the prices paid in vouchers are high, but if the purchases were made in Florida, so far from a market, may not be considered exorbitant.

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

Number of voucher.	In whose favor.	Kind of supplies.	When supplied.	Amount paid by State.	Amount disallowed by Chief of Ordnance.	Amount recommended by Chief of Ordnance.
			1856.			
	M. C. & J. W. Brown.	14 bars lead	Mar. 15	$1.40	$0.28	$1.12
		3½ kegs powder	Mar. 15	12.00	.....	12.00
10	W. G. Ferris & Son	3 bags buckshot	Mar. 15	7.50	1.50	6.00
		1 dozen boxes percussion caps.	Mar. 15	5.40	1.08	4.32
14	.....do	30 pounds lead	Apr. 12	2.85	.45	2.40
		8,500 boxes caps	Apr. 12	17.05	2.60	14.45
		1,700 G. D. caps	Apr. 12	1.10	.....	1.10
		18 canisters powder	Apr. 12	13.50	2.70	10.80
		1 keg powder	Apr. 12	8.00	1.75	6.25
		6 bags buckshot	Apr. 12	15.00	3.00	12.00
18	C. L. Friebele	½ dozen boxes percussion caps.	Mar. 17	3.00	.60	2.40
24	E. G. Rodgers	6 kegs F. powder	May 7	52.50	15.00	37.50
		.....do	May 7	52.50	15.00	37.50
		24 bags buckshot	May 7	57.00	9.00	48.00
		1 box bar lead	May 7	8.00	1.60	6.40
		20 M percussion caps	May 7	35.00	1.00	34.00
29	Phillips & Winchester	20 pounds Dupont powder	Apr. 5	12.50	7.50	5.00
		20 pounds lead	Apr. 5	1.80	.20	1.60
		6 boxes percussion caps	Apr. 5	3.00	.60	2.40
41	James McKay	.....do	May 16	3.75	.75	3.00
55	.....do	1 keg powder	July 4	10.00	3.75	6.25
		4 bags buckshot	July 4	12.00	4.00	8.00
		3 M percussion caps	July 4	2.25	.....	2.25
		10 pounds bar lead	July 4	1.25	.45	.80
		4 bags buckshot	July 7	12.00	4.00	8.00
		2 M percussion caps	July 7	1.50	.....	1.50
		20 pounds bar lead	July 7	2.50	.90	1.60
61	Post & Mel	30 bags buckshot	July 21	69.00	9.00	60.00
55	.....do	100 pounds of bar lead	July 21	8.00	.....	8.00
		6 kegs powder	July 21	48.00	10.50	37.50
		30 M percussion caps	July 21	60.00	9.00	51.00
68	C. L. Friebele	10 pounds lead	May 3	1.00	.20	.80
99	Kennedy & Darling	3 bags buckshot	Apr. 11	7.50	1.50	6.00
102	James McKay	1 keg powder	Oct. 15	8.50	2.25	6.25
111	John J. Hooker	9 pounds powder	Oct. 23	5.62	3.37	2.25
135	M. C. & J. W. Brown	40 M percussion caps	Oct. 15	50.00	.....	50.00
192	.....do	6 canisters powder	May 6	6.00	1.20	4.80
198	.....do	.....do	Dec. 2	4.50	.90	3.60
		12 pounds lead	Dec. 14	.96	.....	.96
				623.43	115.63	507.80

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

ORDNANCE OFFICE, *May* 15, 1882.

EXHIBIT NO. 50.

WAR DEPARTMENT,
Washington City, March 27, 1882.

SIR: The accompanying Abstract K, with vouchers, submitted to this Department under the provisions of the joint resolution of March 3, 1881, pertaining to the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, are, by direction of the Secretary of War, respectfully referred to you for investigation and report as soon as practicable.

The report will be so framed as to show what expenditures were properly made, and what is the evidence of such expenditures; what amounts should be accepted as reasonable charges at the date and locality when and where the vouchers were issued; what vouchers are defective, and generally to exhibit the correctness of the claims submitted.

The joint resolution to which reference is made will be found on page 520, Vol. 21, of the United States Statutes at Large.

Very respectfully,

JOHN TWEEDALE,
Acting Chief Clerk.

To the SURGEON-GENERAL.

EXHIBIT No. 51.

Report on vouchers pertaining to the claim of the State of Florida for reimbursement of expenses incurred in suppressing Indian hostilities between the 1st day of December, 1855, and the 1st day of January, 1860. (See Statutes 21, page 520.)

The recommendations here made are based upon the same principles which are applied in the settlement of similar claims on account of United States troops, so far as relates to the evidences of claim and the current rates of the period.

		Amount claimed.	Amount recommended.
Dr. D. A. Branch, medical attendance, April 29 to July 15, 1856		$31.00	$31.00
Dr. D. A. Branch, medical attendance, same time. This a second charge for the same service, with an additional item		34.50	.....
Dr. D. A. Branch, medicines; disallowed $9.35, the amount of a separate bill, which is wanting		14.10	4.75
S. B. Todd, medicines; allow $3.25 per ounce for quinine on 1st line; deduct $4.50; for opium, $7 per pound, 7th line, deduct 84 cents; sulph. cupri, 9th line, 3 cents per ounce, deduct $1.76; error in extending 6th line, 1 cent, $7.11		48.79	41.68
S. B. Todd, medicines; allow for alloes, on last line, 4 cents per ounce; deduct 42 cents		20.03	19.61
Dr. John P. Creighton, medical attendance, June, 1856		15.00	15.00
James McKay, medicines, July, 1856; deduct on quinine, as above, $1.75		6.33	4.58
James McKay, medicines, August, 1856		11.37	11.37
James McKay, medicines, September, 1856; allow for brandy, 1st line, $1.25 per bottle, deduct $1.50; line 18 should be 12½ cents, deduct 12½ cents; line 21 should be 31 cents, deduct 94 cents; line 24, deduct for overcharge, $1.25; line 29, deduct for overcharge, $1.05		50.92	46.05
M. C. & J. W. Brown, medicines, October 13, 1856:			
Line 1, allow $2.50 per dozen; deduct	$3.00		
Line 14, allow 75 cents per dozen; deduct	21.00		
Line 15, allow 50 cents per dozen; deduct	6.00		
Line 20, allow 75 cents per pound; deduct	1.40		
Error in footing, deduct	8.80		
Commission, deduct	3.83		
	44.03	158.83	114.90
James McKay, medicines, October 21, 1856:			
Line 1, deduct on tea	50		
Line 2, deduct on brandy	2.00	44.60	42.10
Kennedy & Darling, medicines, October 20, 1856		1.00	1.00
Dr. J. A. Moody, medical attendance, June, 1856		67.00	.....
The acknolwedgment of having received a "certificate of compensation" is not considered evidence of actual payment.			
S. L. Niblack, medicines, July 10, 1856		259.78	.....
This account is not certified by any officer or agent of the State. If it be allowed, the following prices are recommended:			
Line 1, calomel, 75 cents per pound.			
Line 3, magnesia, $1 per pound.			
Line 18, epsom salts, 10 cents per pound.			
Line 19, sulph. quinine, $3.25 per pound.			
Line 22, gum opii, $7 per pound.			
Line 11, 2d page, blue stone, 50 cents per pound.			
Line 29, 2d page, blue mass, $1 per pound.			
Line 1, page 3, brandy, $5 per gallon.			
Line 2, page 3, port wine, $3 per gallon.			
Line 6, page 3, wine bitters, $4 per gallon.			
Line 11, page 3, ball forceps, $3.			
Jacob A. Garrard, services as mechanic		22.00	.....
There is no certificate of service, or evidence of payment. The services are such as can best be judged of by the Quartermaster-General.			
James M. Cooper, services as mechanic, July, 1856		7.50	.....
Receipted but not certified; proper for the consideration of the Quartermaster-General.			
Frederick Lykes, rent		5.00	.....
For the consideration of the Quartermaster-General.			
D. A. Branch, medicine, August, 1856		14.81	.....
No certificate or receipt; for the price of quinine, see above account of S. B. Todd.			
Ames & Lively, medicines, September, 1856		54.00	.....
Not certified by any State officer or agent; a fair price for quinine would be $3.25, as above.			
Robert Bigelow, medicines, September, 1856		168.05	156.00
Deduct for overcharge:			
Line 1, calomel	$0.55		
Line 12, blue mass	.75		
Line 2, page 2, quinine	3.50		
Line 14, page 2, opium	1.50		
Line 6, page 3, cupping horns	2.00		
Line 7, page 3, scarificator	3.00		
	11.30		

Report on vouchers pertaining to the claim of the State of Florida, etc.—Continued.

		Amount claimed.	Amount recommended.
Anderson Mayo, medicines, September 17, 1856		$18.13	$12.53
Deduct, line 2, quinine	$4.50		
Deduct, line 3, calomel	.80		
Deduct, line 6, blue mass	.30		
	5.60		
John Parsons, medicines, September 24, 1856		96.92	.....
No certificate or evidence of payment.			
Perry G. Wall, rent		31.25	.....
No certificate or evidence of payment; for the consideration of the Quartermaster-General.			
F. Branch, medicines, October 8, 1856		131.53	.....
Not receipted.			
F. Branch, medicines, December, 1856		45.30	.....
		1,357.83	501.32

It has not been thought necessary to remark specially upon any of the prices charged in the last two accounts, as there is no evidence that any part of them was paid.

J. K. BARNES,
Surgeon-General, U. S. Army.

SURGEON-GENERAL'S OFFICE,
April 4, 1862.

House Ex. Doc. No. 68, Fifty-first Congress, first session.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING,

With accompanying papers, the report of the Third Auditor of the Treasury upon the mutual demands of the State of Florida and the United States.

DECEMBER 18, 1889.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT, *December* 16, 1889.

SIR: In compliance with section 5 of the deficiency act of March 2, 1889 (25 Stat., p. 939)—

That the Secretary of the Treasury be, and he is hereby, authorized and directed to examine the claim of the State of Florida, reported in the letter of the Secretary of War dated May 22, 1882, and under previous acts of Congress, and to make a report upon the same to the next regular session of Congress, and in connection therewith to report the amount of all claims in favor of the General Government against the State of Florida, and in said report to state the account between the General Government and the State of Florida,

I have the honor to transmit herewith the report of the Third Auditor of the Treasury of the 14th instant, with accompanying papers, upon the mutual demands of the State and the United States.

Respectfully, yours,

GEO. S. BATCHELLER,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE,
Washington, D. C., December 14, 1889.

SIR: The deficiency act of March 2, 1889, section 5, provided:

That the Secretary of the Treasury be, and is hereby, authorized and directed to examine the claim of the State of Florida reported in the letter of the Secretary of War dated May 22, 1882, and under previous acts of Congress, to make report upon the same to the next regular session of Congress, and in connection therewith

to report the amount of all claims in favor of the General Government against the State of Florida, and in said report to state the account between the General Government and the State of Florida.

Under the date of March 26, 1889, you instructed the Third Auditor to prepare a report in accordance with said provision.

The State advances two claims under this provision, viz:

First. The claim specifically referred to in the act as reported in the letter of the Secretary of War, May 22, 1882. This claim is for the reimbursement of certain expenses incurred by the State in suppressing Indian hostilities between December 1, 1855, and January 1, 1860, $268,103.40 (*vide* Joint Resolution of March 3, 1881; also report by Secretary of War, in House Ex. Doc. No. 203, 47th Congress, 1st session).

Second. Sundry expenses for similar purposes, incurred in 1849, but not paid by the State until 1859, $21,685.72. In making the report above referred to the Secretary of War excluded these items because the joint resolution under which he was acting was limited to expenses incurred between December 1, 1855, and January 1, 1860. But the act of 1889 requires a report upon any now unsettled claims by the State.

On the claim originating in the years 1855–'59 (*vide* detailed statement) I find an expenditure proven in the sum of	$246,426.51
Deduct amount realized by the State by sales of military stores (Ex. III)	1,405.65
	245,020.86
In the items of expenses in 1849 (paid by State in 1859) I find an expenditure proven (*vide* detailed statement) in the sum of	16,913.45
Aggregate	261,934.31

Offsets—demands against the State.—In reply to the inquiry addressed to you by this office April 10, 1889, you have transmitted responses by the Departments and bureaus respecting the existence of any such demands. Only two are reported, viz:

First. The First Comptroller states that a balance of $72,756.41 stands against the State on account of "direct tax" under act August 5, 1861. In the case of United States *vs.* Louisiana (123 U. S. Rep., 32) the Supreme Court decided that the apportionment of the tax ($20,000,000) among the States was merely descriptive of the aggregate to be assessed upon lands of individuals within each State; that the act contemplated, in the first instance, that the United States would, by its own direct processes, collect the tax upon each parcel of land from the parcel itself, and that such aggregate constituted no debt of the State in its corporate capacity, unless the State had, as in some instances, specially assumed it.

As Florida did not assume the aggregate assessed upon the lands within its boundaries, I presume Congress will not regard the balance above mentioned as a debt of the State, or treat it as an offset to a demand due the State.

Second. The Secretary of the Interior reports that the United States holds, as assets of its "Indian trust fund," bonds of the State in the sum of $132,000, bearing 7 per cent. interest; that the interest to July 1, 1862, was paid by the State, and that, since the suspension of the interest payments by it, the Interior Department has from time to time applied to the interest sundry accounts falling due to the State on sundry accounts. And thus it appears that at this date the interest has been paid to include November 26, 1873.

NOTE.—This computation includes the 5 per cent. due the State on sale of United States swamp lands, as shown in the settlement of the

accounts of the United States land office at Gainesville, Fla., covering the fiscal year 1888–'89. Such percentages due the State are liable to appear in the future settlements of the land office accounts.

The question now arises in respect to *interest* upon the demands of the State. If this were a case wherein the accounting officers had been directed to make a final settlement, I would be compelled to say that the Executive Departments have no power to award interest upon claims against the United States unless expressly so provided by statute. But this proceeding is not of that nature. Congress has reserved to itself the determination what shall be the plan and terms of the general and final settlement between the United States and the State, and has merely called upon this Department to aid its deliberations, by examining into the details of any mutual demands and by suggesting some equitable mode of settlement.

In the debate upon this provision in the act of March 2, 1889, it was assumed in the Senate that mutual interest would be the rule in the final adjustment, and the general tenor of the provision for a final settlement of all mutual demands seems to indicate that Congress intends eventually to make or provide for a settlement upon the broad and equitable principles applicable to settlements between individuals of their mutual accounts and demands.

It is not clear in what precise sum the funds for these expenditures were provided by loans effected upon interest. It is, however, evident that the amount borrowed upon 7 per cent. bonds and thus applied went much beyond the $132,000 procured from the United States; and it is highly probable that the entire bulk of the funds for these expenditures was borrowed upon interest.

It also appears that the State was compelled to put its bonds (except those sold to the United States) on the market at a heavy discount.

It would be impossible to fix with strict precision upon any equated date from which an aggregate due the State should draw interest. The payments by the State were in a vast number of small sums, scattered through the period 1855–'59, and the exact day of payment in many cases is not known; also the exact dates at which the State effected loans or sold bonds (except those sold to the United States) are not known. The two purchases by the United States were about midway of this period, viz: $125,000, July 1, 1857, and $7,000, January 1, 1858.

Under the circumstances, absolute precision being impossible, I have assumed that January 1, 1858, would be fair to each party as a date from which to reckon interest on the amount due the State.

Upon the basis above stated two modes of stating a mutual account are suggested, viz:

First. By computing interest on each side to January 1, 1890, and there striking a balance, thus:

Aggregate due the State		$261,934.31
Interest thereon, at 7 per cent., January 1, 1858, to January 1, 1890		586,732.85
		$848,667.16
Principal of bonds held by United States	$132,000.00	
Interest from November 27, 1873 (to which date interest has been paid), to January 1, 1890	148,712.66	
		$280,712.66
Balance		$567,954.50

Second. By computing interest on the aggregate due the State to include November 26, 1873 (to which date inclusive the interest on the

I hold that the State should be allowed this item—as computed by the War Department, $1,075.40. For reasons above stated I also allow items $833, $367.50, and $85.33.

Claimed by the State on this roll	$12,341.49
I disallow for reasons stated in War Department report	2,202.89
I allow	10,138.60

Abstract B.—Subsistence.

[Page 8, and Exhibit No. 42, page 77.]

On this abstract the Commissary-General recommended disallowances aggregating $17,775.13¼, but the judge-advocate (with approval of the Secretary of War) disallowed only items as follows:

Vouchers missing	$2,614.79¼
Voucher not receipted	11,575.59¼
Vouchers unauthorized expenditures	1,755.13
Total	15,945.51¾

The amount stated as $11,575.59¼ is in fact only $9,434.90. The item of $2,140.69 (E. G. Rogers & Co.), and which was made to swell this amount, has no existence. There was no such item on the State's voucher, No. 53 (No. 1, miscellaneous). Hence *so much* of this amount ($11,575.59) was without any other foundation than some clerical mistake. Referring to the residue ($9,434.90) in said amount, and also to the bill of $2,120.56 (E. G. Rogers & Co.), included in the sum of $2,614.79¼ above, I consider that these items should be allowed. There is no room for doubt in any case that the supplies had been actually purchased by and delivered to the State, and had been used by the State in subsisting troops. On all these points the evidence is clear. The presumption of payment is so strong that I do not feel justified in excluding the items because technical receipts are not produced. Excepting about $50 in small items the two amounts represent purchases in large quantities by the State officers on account of the State, from two firms in New Orleans, viz, Post & Mel, and E. G. Rogers & Co. The presumption is very strong that these merchants did not neglect to ask and receive payment of these large bills. The purchasing officers duly rendered their accounts to the State, and these items were included therein as bills which had been paid. Indeed, in one case (voucher 49) it clearly appears that the State commissary had drawn $2,000 from the governor and had sent it *in advance* to Post & Mel to make purchases.

Where, as in this case, the United States is liable only to the State, and in no event to the vendors, there is no occasion for extreme strictness in insisting on the production of technical and formal evidence of the discharge of the debts. It is sufficient that presumption puts it beyond reasonable doubt that the State did actually pay those from whom it made the purchases I therefore allow the items $11,575.59 and $2,120.56.

Claimed by the State on this abstract	$23,474.90
Errors in vouchers to be added	361.54
Correct total of abstract	23,836.44
I disallow for reasons stated in War Department report	2,249.37
I allow	21,587.07

Abstract C.—Forage.

[Page 9, and Exhibit No. 45, page 83.]

On this abstract are four items, $636.85, $641.72, $324, and $350.12 for purchases of forage from Post and Mel, and E. G. Rogers & Co. These items were embraced in the same bills with the items for *subsistence* bought from them (see Abstract B), and the remarks above made respecting the subsistence items apply here. I allow these items, amounting to $952.69. I also allow sundry items, $3, $19.09, $11.66, $19.12, $23.91, and $23.91, aggregating $100.69 for which there are no formal receipts, but where the evidence of purchase and use by the State is substantial.

In the total allowed by the War Department on the forage abstract was included an item of $4,293.52, paid to A. L. Caruthers for corn and fodder for Capt. H. D. Dyche's company, in the period from July 22, 1849, to October 27, 1849.

The allowance was doubtless made through oversight. Probably the fact of the payment being made in October, 1859, misled the examiner into a supposition that the service was in 1859, whereas it was ten years earlier. The act of March 3, 1881, relates only to expenditures incident to the suppression of Indian hostilities between December 1, 1855, and January 1, 1860. I exclude the amount *here*, and consider it in the separate claim for expenditures in 1849.

Claimed by the State on this abstract	$42,279.52
Errors in vouchers to be added	56.00
	42,335.52
Errors in vouchers to be deducted	30.90
	42,304.62
Item of 1849 expenditures deducted	4,293.52
	38,011.10
I disallow for reasons stated in War Department report	5,581.50
I allow	32,429.60

Abstract G.—Ordnance.

[Page 10, and Exhibit No 49, page 94.]

I consider that items $156.50 and $163.40 (vouchers 24 and 61), purchases of Post & Mel, and E. G. Rogers & Co., should be allowed. The evidence is substantial that the State bought, received, and paid for the ordnance—

Claimed by the State on this abstract	$808.43
I disallow for reasons stated in War Department report	300.63
I allow	507.80

Abstract H.—Contingencies.

[Page 10, and Exhibit No. 45, page 89.]

Item of $310.75, which it is claimed was paid by General Jesse Carter. The bill of lading is not intelligible. In the body thereof the items are stated, and aggregate $310.75, but in the heading it is recited that the entire freight (to be paid by General Carter) is $190.23; also in a note thereon the master of the boat was directed by Post & Mel (the shippers) to collect the $190.23 from General Carter, or, if he failed to pay that sum, to reserve certain parts of the cargo for sale to pay said freight. As the evidence stands, it does not seem that Carter paid more than $190.23, and I allow only that sum. I also allow items $65.36, $122.07, $1.65, $289.50, and $177.97 of item $198.10 ($20.13 having been allowed in subsistence account, Abstract B). The evidence is fully satisfactory that Post & Mel, and E. G. Rogers & Co. sold the goods to the State, shipped them to Florida, and were re-imbursed by the State the freight thereon.

Claimed by the State on this abstract	$10.332.84
I disallow for reasons stated in War Department report	470.25
I allow	9,862.59

Abstract I.—Stationery.

[Page 10, and Exhibit No. 45, page 90.]

For reasons stated respecting subsistence (Abstract B), items $44.10 and $50 are allowed.

Claimed by the State on this abstract	$111.11
I disallow for reasons stated in War Department report	6.91
I allow	104.20

EXHIBIT I.

Summary of Third Auditor's allowances for "pay of troops" from December 1, 1855, to January 1, 1860. (Abstract A.)

Company.	No. of roll.	Period of service.		Claim.	Amount allowed.	Amount disallowed.
		From—	To—			
W. R. Hooker	1	Jan. 3, 1856	Feb. 21, 1856	$4,809.57	$4,557.01	$252.56
F. M. Durance	2	Feb. 21, 1856	Aug. 22, 1856	15,794.91	15,416.21	378.70
Do	3	Aug. 22, 1856	Dec. 21, 1856	9,693.00	9,567.92	125.08
William H. Kendrick	4	Feb. 26, 1856	Aug. 28, 1856	16,277.99	16,158.46	119.53
Do	5	Aug. 28, 1856	Dec. 6, 1856	8,906.50	8,832.11	74.39
A. D. Johnson	6	Feb. 26, 1856	Sept. 2, 1856	16,739.85	16,459.66	280.19
Do	7	Sept. 2, 1856	Dec. 20, 1856	8,833.93	8,706.46	127.47
Leroy G. Leslie	8	Mar. 12, 1856	Aug. 20, 1856	14,108.34	13,740.30	368.04
A. J. T. Wright	9	Apr. 28, 1856	May 17, 1856	574.68	544.49	30.19
Do	10	May 18, 1856	Aug. 1, 1856	9,667.71	9,566.96	100.75
John McNeill	11	May 15, 1856	Aug. 12, 1856	2,059.45	2,004.05	55.40
Asa A. Stewart	12	May 18, 1856	Sept. 30, 1856	11,510.89	11,492.31	18.58
Robert Youngblood	13	May 18, 1856	Sept. 30, 1856	5,804.18	5,696.05	108.13
Enoch Daniel	14	May 30, 1856	July 20, 1856	1,994.82	1,981.85	12.97
Wm. B. Hardee	15	June 1, 1856	June 29, 1856	180.14	179.04	1.10
Alexander Bell	16	June 24, 1856	Sept. 30, 1856	3,526.62	3,411.61	115.01
Thomas Hughey	17	Aug. 18, 1856	Sept. 30, 1856	784.40	781.02	3.38
E. T. Kendrick	18	Oct. 23, 1856	Jan. 14, 1857	3,243.36	3,199.16	44.20
John Addison	19	April 8, 1856	Oct. 7, 1856	10,232.43	10,232.43	.....
John Parker	20	Oct. 7, 1856	Dec. 15, 1856	4,556.59	4,023.98	532.61
John McNeill	21	Not stated on abst.		3,303.06	3,237.00	66.06
S. Sparkman	22	do		2,967.31	2,907.96	59.35
R. B. Sullivant	23	do		809.15	809.15	.....
Field and staff	26½	do		12,341.49	10,138.60	2,202.89
Total	.....			168,720.37	163,645.79	5,074.58

NOTE.—Rolls 24, 25, and 26, aggregating $11,316.91, pertain to payments made by the State of Florida for services in 1849, and are not included in above statement.

EXHIBIT II.

General summary of Third Auditor's allowances on items pertaining to Indian hostilities, 1855–'59.

Abstract.	For what purpose.	Amount of claim.	Amount allowed.	Amount disallowed.
A	Pay of troops	$168,720.37	$163,645.79	$5,074.58
B	Subsistence	23,836.44	21,587.07	*2,249.37
C	Forage	42,304.62	32,429.60	†9,875.02
D	Transportation	19,843.28	17,286.89	2,556.39
E	Camp and garrison equipage	193.81	98.59	95.22
F	Quartermasters' stores	589.67	395.16	194.51
G	Ordnance	808.43	507.80	300.63
H	Contingencies	10,832.84	9,862.59	470.25
I	Stationery	111.11	104.20	6.91
K	Medical and hospital stores	1,362.83	508.82	854.01
	Total	268,103.40	246,426.51	21,676.89

NOTE.—Abstract K includes accounts of J. M. Cooper, J. A. Jarrard, Fred. K. Lykes, and Perry G. Wall for $7.50, $22, $5.90, and $31.25, respectively. (See Colonel Barr's report, pages 91 and 96.)

*The sum of $1,514.52 of the amount disallowed is for subsistence of Captain Dyche's company in 1849, and is commented on under head of expenditures for that period.

†Items $150, $4,410.77, and $4,293.52 of the amount disallowed are for forage for troops in 1849, and are commented on under head of expenditures for that period.

EXHIBIT III.

Summary of sales of military stores (subsistence, forage, etc.), as shown by returns of Jesse Carter, special agent.

Date.	Amount.	Date.	Amount.
Oct., 1856	$80.00	Jan., 1857	$24.55
Nov., 1856	26.27	First quarter, 1857	499.48
Dec., 1856	660.38		
Jan., 1857	114.97	Total	1,405.65

CLAIM FOR EXPENSES IN 1849—DETAILED STATEMENT.

Large payments have already been made to the State on account of expenses incurred in 1849. But upon careful examination it is found that they did not include any of the items embraced in the present claim. The acts of June 30, 1851, and March 3, 1857, under which such payments were made, did not permit the consideration of any items, unless payment thereof had actually been made by the State. As the State had not then paid the items in this claim (and did not pay them until 1859), it was not able to include them in the previous claims.

The claim is as follows:

Voucher 24 A.—Capt. H. D. Dyche's company, July 22 to October 27, 1849	$4,786.43
25 A.—Capt. A. Jernigan's company, July 22 to October 23, 1849	4,929.48
26 A.—Capt. J. O. Devall's company, July 24 to October 24, 1849	1,601.00
53 B.—A. L. Caruthers, subsistence, July 22 to October 27, 1849	1,514.52
77 C.—S. L. Sparkman, forage	150.00
79 C.—A. Jernigan, forage	4,410.77
79 C.—A. L. Caruthers, forage	4,293.52
Total	21,685.72

Vouchers No. 24 and No. 25 A.

The aggregate paid by the State to Captain Dyche's company and Captain Jernigan's company is not in excess of what would have been paid by the United States for similar companies for the same time. I therefore allow the items in full.

Voucher No. 26 A.

Of the aggregate claimed to have been paid by the State to Captain Devall's company, three privates, whose pay is stated at $70.50 each, do not sign receipts, and there is no evidence upon which to base an allowance. Disallowing these items, I allow the balance, $1,389.50.

Voucher No. 53 B.

The item is cost of subsistence for Capt. H. D. Dyche's company of sixty-nine men for ninety-five days. The articles purchased are component parts of a ration, and the prices charged appear reasonable. I therefore allow the item $1,514.52 in full. The State has produced no vouchers and has claimed no re-imbursement for subsisting the other two companies.

Voucher No. 77 C.

In respect to this item of $150 for forage there is no voucher, and no data whatever on which to base an allowance; I therefore exclude it.

Voucher No. 79 C (part).

This item is said to be cost of forage for Captain Jernigans' company. The same general remark applies in this case as is noted in regard to voucher 77 C above, and the amount is disallowed.

Voucher No. 79 C (part).

For cost of forage (corn and fodder) for Captain Dyche's company between July 22, 1849, and October 27, 1849, $4,293.52.

The prices paid, I think, may be accepted as reasonable, and I allow the item claimed. The State has presented no vouchers for forage furnished Captain Jernigan's company or Captain Devall's company.

EXHIBIT IV.

General summary of Third Auditor's allowances on items pertaining to Indian hostilities in 1849.

For what purpose.	Amount of claim.	Amount allowed.	Amount disallowed.
Capt. H. D. Dyche's, company	$4,786.43	$4,786.43	.....
Capt. A. Jernigan's, company	4,929.48	4,929.48	.....
Capt. J. O. Devall's, company	1,601.00	1,389.50	$211.50
A. L. Caruthers, subsistence	1,514.52	1,514.52	.....
S. L. Sparkman, forage	150.00	.....	150.00
A. Jernigan, forage	4,410.77	.....	4,410.77
A. L. Caruthers, forage	4,293.52	4,293.52	.....
	21,685.72	16,913.45	4,772.27

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 274.

SARAH A. CLAPP.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1418.]

The Committee on War Claims, to whom was referred the bill (H. R. 1418) for the relief of Sarah A. Clapp, submit the following report:

This measure was considered by this committee during the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 2933, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 10801) for the relief of Sarah A. Clapp, submit the following report:

This bill is for the payment of Sarah A. Clapp, *née* Chadwick, for services as surgeon of the Seventh Illinois Cavalry from November 15 to December 27, 1861, and as assistant surgeon of the same from December 27, 1861, to August 25, 1862.

The documents accompanying the bill, signed by officers and members of the regiment and others, show conclusively that Sarah A. Clapp (*née* Sarah A. Chadwick) served successfully, in the capacity indicated, as surgeon of the regiment from November 15 to December 27, 1861, and as assistant surgeon from December 27 to the following August; but that, owing to the refusal of the State medical examining board to examine for this service one of her sex, she could not be commissioned or paid. The testimony that the services were faithfully and intelligently rendered under trying circumstances and resulting in the saving of valuable lives is ample and apparently of a thoroughly reliable character.

We recommend the passage of the bill.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 275.

THOMAS L. HIGGINS.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1407.]

The Committee on War Claims, to whom was referred the bill (H. R. 1407) for the relief of Thomas L. Higgins, submit the following report:

The facts of this claim are fully stated in a report made by this committee to the House in the Forty-ninth Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 3341, Forty-ninth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 8221) to grant relief to Thomas L. Higgins, have had the same under consideration, and report:

July 1, 1864, the military forces of the United States, commanded by Gen. W. T. Sherman, were in possession of certain portions of the States of Tennessee and Georgia, and were maintaining in such territory certain military railroad lines. On that date the claimant herein, Thomas L. Higgins, made a proposal to the proper authorities to furnish wood and ties for the operation of such roads, which proposal was as follows:

PROPOSAL FOR WOOD AND TIES.

UNITED STATES MILITARY RAILROADS, DIVISION OF THE MISSISSIPPI,
Chattanooga, July 1, 1864.

The undersigned hereby propose to W. C. Taylor, superintendent Chattanooga and Atlanta, and Chattanooga and Knoxville Line, and, if this proposition is accepted, agree to furnish to the United States military railroads, Division of the Mississippi, for the use of the Chattanooga and Atlanta Line, railroad line, the following, to wit: All the wood and cross-ties required for the use of railroad, to wit: Said wood to be of hard timber, cedar and yellow pine, of suitable quality, for the use of engines, to be 2½ feet long; the timber for the wood and ties to be furnished by the Government. Every 50 cords of wood and every 500 cross-ties to be receipted for by the Government when the same shall be delivered.

Delivered as follows: At such points and in such quantities as shall be designated by the superintendent or his properly authorized agent for that purpose, and for all wood and ties so delivered and receipted for, the Government to pay for monthly at the rate and for the price of $3.75 for wood per cord, and 50 cents for each tie. Said cross-ties to be 8 feet long and to average 8 inches face, and 6 inches depth.

Transportation to be furnished the undersigned free of cost over the United States military railroad lines for men and animals employed for the work, also for the necessary subsistence, forage, materials, machinery, and tools.

Subsistence for persons, forage for animals actually employed, to be furnished the undersigned at the Government prices.

Either parties have the privilege of terminating this contract by giving thirty days' notice to the other.

THOS. L. HIGGINS.

This proposal was duly accepted, and claimant entered upon the performance of his said contract, and continued faithfully to do so until the happening of the events hereinafter set out. In order to the performance of the obligations of the contract, it was necessary for him to have a large amount of property, such as teams, wagons, etc. These he procured of the value of many thousand dollars.

In November, 1864, the military forces of the United States were suddenly (to the claimant at least) withdrawn from that region of country and the military railroads herein involved abandoned. The claimant did not have thirty days' notice of the intention of the Government to so abandon them. He had but two or three days. He at once demanded transportation for his teams, wagons, etc., in order that he might remove the same to a place of safety within the Union lines. A few cars were assigned to him, but not enough to transport all his property. Those assigned to him he proceeded to load, but after they were loaded he was required to unload them and return them to the quartermaster, because they were needed for the transportation of Army supplies, and no more were assigned to him. The Army moved and the roads were abandoned by the Government. Almost immediately after, the Confederate forces came in and took possession of the country and captured his property. This was without fault on his part. Claimant has always been a loyal man.

At the time of said abandonment and capture claimant had on hand ready for delivery, but not delivered, a large quantity of wood and ties, as will be hereafter more specifically set out.

The claimant made timely application to the proper accounting officers of the Treasury to be reimbursed his losses.

His claim was as follows:

(1) For cutting on the Chattanooga and Atlantic line of United States military railroads (subsequently destroyed by the enemy):	
2,121¼ cords of wood, at $3.25 per cord	$6,894.87
1,400 cross-ties, at 40 cents per tie	560.00
	7,454.87
(2) For property captured at Smyrna, Tenn., August 1, 1864	3,714.40
(3) For property captured at Dalton, Ga., September 20, 1864	1,034.70
(4) For property captured at Big Shanty, Ga., October 3, 1864	319.00
(5) For property captured at Calhoun, Ga., October 14, 1864	4,002.00
(6) For property captured at Dalton, Ga., October 15, 1864	1,425.70
(7) For property captured at Acworth, Ga., October 20, 1864	4,151.00
(8) For property abandoned, for want of transportation on the railroad between Chattanooga and Atlanta, in November, 1864, and captured by the enemy	6,970.00

The claimant alleged that he was entitled to recover all the foregoing items of damages on account of two breaches of the contract on the part of the Government, viz: (1) A failure to give him thirty days' notice of the purpose to abandon the contract; and (2) a failure to furnish transportation.

In 1866 the first of said items was settled by paying the sum of $5,229.45, the cost to him of preparing said wood and ties ready for delivery. This the Supreme Court of the United States has held, in J. W. Parish *vs.* The United States, is a proper measure of damages.

In regard to the remaining seven items of the claim, in 1873 the Third Auditor of the Treasury made the following report to the Second Comptroller, to wit:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
April 17, 1873.

SIR: I herewith transmit the papers pertaining to the claim of Thomas L. Higgins, and submit for your consideration an application made 8th March, 1873, by the claimant through his attorney, S. W. Johnson, esq., for further action.

The claim embraces, as presented, two parts:

First. For expenses incurred and lost in preparing wood and cross-ties, which he could not deliver, because of the abandonment by the Union forces of that section of the country. This part was paid in full by February settlement No. 41, made in August, 1866, for the sum of $5,229.45.

Second. For compensation for horses, wagons, supplies, etc., which he was using in preparing wood and cross-ties, and which were lost to him because the Union forces by abandoning that section failed to protect him, stated at $21,616.80.

When the settlement above referred to was made, this part second of the claim

seems not to have been passed, and no final decision was made thereon by the accounting officers. The present application is for allowance on this part of the claim.

On 1st of July, 1864, the claimant made a written proposal to furnish wood and cross-ties to the United States military railroads for the Chattanooga and Atlanta line. His proposal was accepted and approved by the officers of the United States, and thus the contract was made. I do not understand it to be claimed that the property for which compensation is asked was in the military service of the United States within the intent of the act of March 3, 1849. If it be so contended such a claim finds no support in the facts. The contract of the claimant was merely to supply at points to be designated materials for the use of the Government. The choice of means to be used in preparing such materials was left entirely to his own discretion, and the Government neither acquired any right by the contract nor in fact sought to exercise any control over such means.

In the former report made by the Acting Auditor to the Acting Comptroller the opinion was stated that the Government, in the character of a contractor, was liable to precisely the same extent as an individual would be under a similar contract, but no further, and that no claim for damages can be maintained for acts done by the Government purely in its character as sovereign. In that opinion I fully concur. The general obligation of the Government towards its citizens can not be tacked onto a contract, and thus be made to enlarge the responsibility under the contract. The abandonment of that section by the Union forces was an act done purely in the sovereign character of the Government. It seems to have subjected Mr. Higgins to much loss of property, but it doubtless operated in precisely the same manner upon many other loyal citizens, and his claim upon account of such losses stands upon the same footing with theirs. The circumstance that he was a contractor with the Government has no effect, for the obligation of the Government to protect its citizens in the lawful use of their property extends equally to *all* citizens, whether they be or be not such contractors.

Under the rulings uniformly made by you, Mr. Higgins has no claim which the accounting officers can adjust, unless the loss of this property was occasioned by some breach by the United States of some specific provisions of the contract. There was no provision requiring the Government to furnish military protection to the employés and property of Mr. Higgins in his operations under the contract, and therefore the inability of the Government to furnish such protection was no breach of the contract.

In the argument presented when this claim was formerly acted on, it was contended that the Government had promised by the contract to furnish transportation for the employés and property of the contractor, and had broken the contract by failing to furnish it. The provision upon that point in Mr. Higgins's proposal was as follows: "Transportation to be furnished the undersigned free of cost over the United States military railroad lines for men and animals employed for the work, also for the necessary subsistence, forage, materials, machinery, and tools." This was no absolute promise to transport the employés or property of the contractor, but was merely an agreement that they should be carried free over such military lines as should be actually controlled and operated by the Government, at the several times when such transportation should be needed. No lines nor points were especially designated. If, during the continuance of the contract, the Government had increased its military railway lines in number or extent, the contractor would clearly have been entitled to the benefit of such increased facilities, and by the same rule if it was compelled during that period to abandon any of the lines, its obligations to the contractor would be proportionally lessened. If the Government had refused, on proper demand, to transport the employés and property over a line which it was actually controlling and operating, such refusal would doubtless have violated the agreement, but there was no guaranty that it would keep possession of any particular line for the benefit of this contractor, and therefore the compulsory abandonment of that section of the country was no breach of this provision of the contract. As soon as any one of these lines ceased to be under the control of the Government it ceased to be on the United States military railroad lines, and the agreement to furnish transportation over it was ended.

In my opinion the accounting officers have no authority to make the compensation now asked.

Respectfully submitted.

ALLAN RUTHERFORD,
Auditor.

Hon. J. M. BRODHEAD,
Second Comptroller.

On the foregoing statement the Comptroller made the following decision:

COMPTROLLER'S OFFICE, *December 26, 1873.*

Respectfully returned to the Third Auditor, concurring in the within report. Claims of the character of the present one are clearly those of damage, never estimated for, and not within the scope of any appropriation. The precedents cited by the attorney of the claimant are not in point. This claim does not arise under the act of March 3, 1849, nor is it one of contract. In agreeing to furnish the railroad ties and cordwood in the neighborhood of the enemy's country, and in the theater of military movements in time of war, the presumption of law is that the claimant contracted with full knowledge of the contingencies of danger to which he was exposed. Consequently the losses which he incurred, and for which he asks reimbursement, were not such as impliedly render the United States liable.

J. M. BRODHEAD,
Comptroller.

This decision was approved by the Attorney-General of the United States.

In 1874 claimant petitioned for a reopening of the case, and presented some additional evidence. The former decision was, however, adhered to.

The legal propositions announced in the foregoing report and opinion are doubtless in the main correct. But as applied to the facts in this case the decision is, in the judgment of your committee, wrong. It ignores the facts that when claimant was first notified that the road was to be abandoned and his contract terminated the Government had possession of the road and was operating it as a United States military railroad; that claimant demanded transportation and that it was partially furnished him, and afterwards taken from him.

Your committee think that claimant should be reimbursed the value of such property as he had then, at the time he demanded transportation.

The second, third, fourth, fifth, sixth, and seventh items of the claim hereinbefore set out are for property captured prior to November, 1864, and prior to the abandonment of the road, and prior to failure to furnish transportation on demand. This loss can not be in any way attributed to such abandonment and failure, and these items are clearly within the theory of the decision of the accounting officers of the Treasury.

But the remaining item, "for property abandoned for the want of transportation on the railroad between Chattanooga and Atlanta, in November, 1864, and captured by the enemy, $6,970," should be paid.

Your committee therefore recommend the following amendments to the bill:

(1) In line 5 strike out the word "twenty," and insert in lieu thereof the word "six," and after the word "thousand," in lines 5 and 6, insert the words "nine hundred and seventy."

(2) Strike out all after the word "dollars," in line 6, and insert the words "damages incurred under a contract made with the United States Government July first, eighteen hundred and sixty-four, to furnish wood and ties for United States military railroads: *Provided*, That said sum be accepted as full payment under said contract."

And that thus amended your committee recommend that the bill do pass.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 276.

CATHERINE CAINE.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1419.]

The Committee on War Claims, to whom was referred the bill (H. R. 1419) for the relief of Catherine Caine, submit the following report:

This measure was considered by this committee during the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 3815, Fifty-first Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 10800) for the relief of Catherine Caine, submit the following report:

This bill is for the payment to the widow of the late Rev. Charles Caine a sum equal to the salary and allowances of chaplain in the volunteer service from December 10, 1861, to March, 1863. The records of the War Department show that Rev. Charles Caine was commissioned as chaplain of the Sixty-fourth Illinois Volunteers (also designated Yates's Sharpshooters) to rank from December 10, 1861, but that as the battalion only consisted of six companies, and the War Department is only authorized to allow compensation to a chaplain for an entire regiment, he could not be mustered in. The records show him present for duty from date of commission, December 10, 1861, to July 31, 1862, and from that date to February 28, 1863, report him "absent in Illinois to make some arrangements to draw pay." The roll for March, 1863, says:

"Chaplain Caine was not recognized, a battalion not being entitled to one; dropped from rolls by order of Maj. Gen. Hurlbut."

Your committee recommend the passage of the bill.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 277.

GRAFTON F. SMITH, ADMINISTRATOR OF DAVID SMITH, DECEASED.

FEBRUARY 11, 1892.—Laid on the table and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 1646.]

The Committee on War Claims, to whom was referred the bill (H. R. 1646) for the relief of Grafton F. Smith, administrator of David Smith, deceased, submitted the following report:

The Committee on War Claims of the Forty-ninth Congress, to whom was referred the above-mentioned claim, not being fully and clearly advised of all the facts in said claim, referred the same to the Court of Claims for a finding of facts, under the provisions of the act of March 3, 1883, commonly known as the "Bowman act."

The claim has been returned to the committee by the court with the annexed findings of fact.

Your committee assert, as a principle by which they will be governed, when a cause has been fairly heard and determined in the Court of Claims they will not assume to sit in review upon such determination.

Your committee therefore report adversely to the bill, and recommend that it do lie upon the table.

[House Mis. Doc. No. 52, Fifty-first Congress, second session.]

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 12, 1890.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

Hon. THOS. B. REED,
Speaker of the House of Representatives.

[Court of Claims. Congressional Nos. 1244 and 1262. Grafton F. Smith, administrator of David Smith, deceased, *vs.* The United States.]

This case, being a claim for supplies or stores, alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, the court, on a preliminary inquiry, finds that David Smith, the person alleged to have furnished such supplies or stores, or from whom the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

Filed March 12, 1888.

[Court of Claims. Congressional cases No. 1244 and 1262. Grafton F. Smith, administrator of David Smith, deceased, *vs.* The United States.]

At a Court of Claims held in the city of Washington on the 1st day of April, 1889, the court filed the following

STATEMENT OF CASE:

The claim in the above-entitled case for supplies or stores, alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, was transmitted to the court by the Committee on War Claims of the House of Representatives on the 15th day of December, 1886.

G. W. Z. Black, esq., appeared for claimant, and the Attorney-General, by Lewis Cochran, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court, on the 12th day of March, 1888, found that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war.

The case has been brought to a hearing on its merits. The plaintiff alleges that during the late war there were taken from David Smith, since deceased, from his farm in Washington County, Md., by the military forces of the United States, for their use, stores and supplies valued at the sum of $4,826.71, consisting of fencing, potatoes, apples, corn, wheat, rye, harness, tools, fodder, straw, clover, hay, shoats, sheep, bacon, and other like articles.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT:

Plaintiff is the administrator of David Smith, deceased; the other allegations of the petition are not proved.

BY THE COURT.

Filed April 1, 1889.
A true copy.
Test, this 12th day of December, A. D. 1890.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 278.

ENOCH DAVIS.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3176.]

The Committee on War Claims to whom was referred the bill (H. R. 3176) for the relief of Enoch Davis, having examined and considered the same, report the same back to the House with a recommendation that it do pass.

A bill identically like this passed the Senate in the Fifty-first Congress and was favorably reported in the House, the House adopting the Senate report, which we now do, as follows:

[Senate Report No. 65, Fifty-first Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 570) for the relief of Enoch Davis, report as follows:

Enoch Davis was a private in Company G, Sixth Iowa Infantry Volunteers. He served his original enlistment of three years and then reëntered as a veteran soldier in the same regiment and company, and thereby became entitled to certain bounty, a part of which he has never received, for the reason that he was marked on the rolls of his command as having deserted.

The rolls show him to have been absent on the 21st of June, 1865, the day on which his regiment was mustered out of the service at Louisville, Ky. Hence the entry thereon that he was a "deserter." It appears, however, from his own affidavit, that he left but the day before to visit friends across the Ohio River in Indiana, with no idea of deserting, but intending to return. The next day his regiment was mustered out and there was no one to whom he could report.

Affidavits from two of his officers and several of his comrades satisfactorily show that he was with his company until the day before its discharge. They also show him to have been an excellent soldier in camps and in battle, and that he was twice wounded in battle.

Standing on the rolls as a deserter, Davis made application to Congress for a correction of his record; and, under similar proof to that now filed with this committee, Congress passed an act, June 8, 1880, correcting his record and ordering the proper officer to give him an honorable discharge. This was done, but the disbursing officer refused, under a technicality of the law, to pay him the balance of his bounty. Hence this bill (S. 570).

It is hardly to be believed that so good a soldier, serving so long a time—up to the close of the war—would desert after the war was over and while waiting to be discharged, which would have been only one day after he absented himself from his command.

The committee, believing the absence af Enoch Davis to have been merely temporary and free from any intention of desertion, recommend that the bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 279.

B. F. MOODY & CO.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3185.]

The Committee on War Claims, to whom was referred the bill (H. R. 3185) for the relief of B. F. Moody & Co., or their legal representatives, having examined and considered the same report the same back to the House with a recommendation that it do pass.

This same matter was favorably reported in the Fiftieth Congress with an amendment, which has been carried into the present bill. We adopt the report then made, as follows:

Your committee having in charge House bill No. 2195, beg leave to report that this is a bill for the relief of B F. Moody, of Keokuk, Iowa.

Messrs. Moody & Co., on September 30, 1861, entered into a contract to furnish to the United States certain equipments for the use of the Third Regiment of Iowa Volunteer Cavalry. Said contract was made with said firm by Cyrus C. Bussey, colonel of said regiment, and was made by order of John C. Frémont, major-general U. S. Army, as agent of the United States, in pursuance of a letter addressed to S. J. Kirkwood, governor of Iowa, the original of which is made a part of this report (marked A).

EXHIBIT A.

HEADQUARTERS WESTERN DEPARTMENT,
St. Louis, September 14, 1861.

Hon. SAM'L J. KIRKWOOD,
Governor of Iowa.

You are hereby authorized to furnish Col. Bussey's Third Iowa Cavalry with the cavalry equipments of the McClelland pattern, regulation style, quality, and price.

You are also hereby authorized to provide the regiment with the clothing of regulation color (blue) and quality; all wool; also with regulation quality of blankets.

These bills for cavalry equipments and clothing, made under contracts approved by you as governor of the State of Iowa, will be paid at these headquarters.

J. C. FRÉMONT,
Major-General, Commanding.

The contract for furnishing said Third Regiment of Iowa Cavalry is set forth in full (marked Exhibit B.)

EXHIBIT B.

Articles of agreement made this 30th day of September, 1861, between Col. Cyrus Bussey, who, by authority from Maj. Gen. John C. Frémont, is acting as agent for the United States of America, of the one part, and B. F. Moody & Co., of Keokuk, in the State of Iowa, of the other part. This agreement witnesseth that the said Bussey, for and on behalf of the United States of America, and the said Moody & Co., for themselves, their heirs, executors, and administrators, have mutually agreed, and by these presents do mutually covenant and agree, to and with each other in manner following, viz:

First. That the said Moody & Co. shall deliver at Keokuk the goods and articles enumerated below within forty days from the date above written.

Second. The said Moody & Co. shall be paid for the goods within thirty days from the time of delivery and at the prices annexed to each article.

1,140 black wool cavalry hats, trimmed as per regulation, eagle, cross swords, and feathers, at $1.50	$1,710
1,140 overcoats, jackets, and pants, each to be all wool; coat lined with twilled flannel and trimmed according to regulation; pants to be reinforced; 212 jackets, to be trimmed according to regulation for noncommissioned officers, at $29	33,060
1,140 blouses or stable frocks, all wool lined with flannel, at $3.75	4,275
2,280 wool twilled shirts, gray, at $1.50	3,420
2,280 pairs gray net drawers, at 87½c	1,995
2,280 pairs gray wool socks, at 37½	855
1,140 pairs cavalry boots, 20-inch leg, D sole, at $3.75	4,275
1,140 pairs 6-pound blankets, at $6 per pair	6,840
1,140 sets McLelland equipments for horses, viz: 1,140 bridles, 1,140 saddle bags, 1,140 halters, 1,140 watering bridles, 1,140 brushes, 1,140 currycombs, 1,140 spurs, 1,140 carbine sockets, 1,140 feed-bags, 1,140 saddles, and all the necessary girths, surcingles, cruppers, stirrups, etc., to make the saddle complete, at $35	39,900
12 sergeant's sashes, at $2.50	30
1,140 canteens and straps, at 50c	570
1,140 horse blankets, at $3	3,420
85 Anderson tents, at $60	5,100
20 wall tents, at $45	900
2 hospital tents, at $110	220

The said Moody & Co. guaranty that the above goods shall stand inspection if inspected as soon as delivered.

The said Bussey, as agent, agrees to pay all freights and transportation charges on all the above goods from Chicago to Keokuk.

In witness whereof the undersigned have hereunto placed their hands and seals the day and date above written.

[L. S.] CYRUS BUSSEY,
Colonel Third Iowa Cavalry.

[L. S.] B. F. MOODY & CO.

Witness:
B. F. HAMBLETON.

It will be seen that by the terms of said contract Moody & Co. were to deliver said goods and equipments within forty days, which was promptly and faithfully done as set forth in the affidavit of A. Hosmer, marked Exhibit C.

EXHIBIT C.

In the matter of B. F. Moody & Co., of Keokuk, Iowa, furnishing equipments and entire output for the Third Iowa Cavalry in the year 1861, as described at length in affidavit of Oscar Kiser of even date herewith, the entire equipage was delivered within contract time and all of quality superior to requirements of specifications, as was fully established before a Government investigating commission in St. Louis, before which I appeared with all papers, etc., and testified at great length. Several of the rank and file of the regiment testified also, and samples of the goods furnished were before the commission, which after long and thorough investigation did not claim that we had not filled the contract perfectly satisfactory, but nevertheless cut our claim down more than $8,000, giving no reason therefor except that the Government was poor and our contract prices too large.

A. HOSMER.

KEOKUK, IOWA, *December 11, 1886.*

STATE OF IOWA, *Lee County, ss:*

The within statement was subscribed and sworn to by A. Hosmer, before me, this 11th day of December, 1886.

[SEAL.] CLARENCE COMSTOCK.
Notary Public.

Cyrus C. Bussey, who was the colonel of said regiment, and afterwards major-general of volunteers, testified not only as to the prompt delivery of the goods contracted for by him, but also as to their quality and cheapness. It will be seen by reference to the contract that the United States Government agreed to pay for the said equipments at the end of thirty days from the date of delivery of said goods, but as a matter of fact said Moody & Co. were not paid until April, 1862, five

months after the goods were delivered, thus inflicting great pecuniary loss on the said Moody & Co., as they had to borrow a large amount of money to meet their obligations involved in the amount of the contract, for which they had to pay interest at the rate of 10 per cent per annum, which was the rate prevalent in the West at the time.

In 1862, when their accounts were paid, in place of being paid in full, as was their just due and to which they were entitled, the United States commissioner at St. Louis arbitrarily cut down their contract in the sum of $8,446.65, and for this amount the said Moody & Co., ask relief. They also ask for damages and interest, the facts in regard to which are fully set forth in affidavit of Oscar Kiser, of Keokuk, Iowa, senior member of the said firm of said Moody & Co., marked Exhibit D.

EXHIBIT D.

As a matter of history, early in the year 1861 a portion of these United States of America undertook to secede or set up what they called the Confederate States of America and thus made declarations, and took up arms as soldiers of the so-called Confederate States of America, and made an armed attack on the United States Government, and to meet such an attack the President of these United States of America called out 75,000 volunteer troops early in the year 1861, to meet this supposed demand; but finding the insurrection or rebellion of larger dimensions than at first thought this number of men was deemed inadequate for the then demand or wants of the Government, and made further large calls for 500,000 more later on in this year, 1861, to which call people and citizens from all the Northern and Eastern States responded in large numbers, and in some parts of the country in much larger numbers than was expected or thought necessary. Volunteers were offered promptly in response to this call during summer of this year with regiments full, and among them the Third Iowa Cavalry Regiment, with full quota, by Col. Cyrus Bussey to Gen. John C. Frémont, then (September, 1861) in command of this military department. This regiment was accepted, and mustered into the service and had to be equipped both men and horses, 1,140 strong. To do this Gen. Frémont authorized Col. Cyrus Bussey to enter into contract with the firm of B. F. Moody & Co., at Keokuk, Iowa, to furnish all the equipments for the whole regiment, both men and horses, ready for field service. The firm of B. F. Moody & Co. obtained the contract on 30th day of September, 1861, in Keokuk, Iowa, and agreed, knowing the early need of troops in the field, to deliver the said goods, under contract, within forty days from this contract date, although having everything yet to have manufuctured and buy to fill same, but before entering into said contract had made some inquiry as to what prices such goods could be bought at; after this entered into contract and at once went to Chicago, Cincinnati, and New York to buy the goods to fill this contract; at neither of which places could we get anybody to agree to furnish the men's clothing within that time at any price, as so many contracts in the meantime had been made to equip men from the several States. Finally we did get Boston parties to agree to furnish the goods, but at about 33 per cent higher figures than we had expected to pay for some of the goods; the time being short to fill this contract we bought on best terms we could get prompt delivery, and filled the entire contract within the specified time given, on which the regiment went to the front at once, and that the entire outfit for both men and horses was fully up to the standard in quality, and received by the quartermaster of regiment and certified to by him.

These goods were delivered to the regiment on 9th and 10th of November, 1861, for which said goods were to be paid for in cash within thirty days, amounting to $106,270, but in fact was not paid for until the following year, 1862, leaving the firm of B. F. Moody & Co. to carry this large sum on largely borrowed money, on which the current rate at that time was 10 per cent interest, all of which was difficult to do and had to be done, and when finally we did get our money our contract was attacked and arbitrarily cut down $8,048.85; besides, we find an error made against us for $397.80, wherein they made us deliver 1,650 horse blankets and deducted 78 cents on each, when the facts were we never agreed to deliver more than 1,140, and so did as per contract. It may be asked why this matter has been let lay so long without effort to collect it; in answer to which I would state that soon after this all occurred the place where we kept the papers pertaining to this claim was in office of the storeroom where Mr. Moody had left them; the house caught fire and burned up all the papers we had; therefore, having nothing to show for the transaction left, it lay until last year; learning that the whole transaction was of record in the Departments at Washington, and could get copies, and did so apply and get copies of same through Hon. Benton J. Hall, Congressman First Iowa district believing in the justness of our claim and our rights that we should be made whole in the matter and yet be paid at contract price, with the addition of error in horse blankets and dam-

ages for delay for notes payment as agreed within thirty days after delivery of the goods and not doing so until in year 1862.

Claim as now made, vis:

1862.

United States of America to B. F. Moody & Co., Dr.

For arbitrarily cutting down contract	$8,048.85
For error in 510 blankets, at 78 cents	397.80
For damages nonpayment when due	12,000.00
For damages since 1862 (twenty-five years), at 6 per cent	30,000.00
	50,446.65

I, Oscar Kiser, being duly sworn, do say that the above statement is correct to the best of my knowledge and belief.

OSCAR KISER.

Sworn to and subscribed before me this 11th day of December, 1886.

[SEAL.] CLARENCE COMSTOCK,
Notary Public.

Your committee, after a careful examination of all the testimony, are of the opinion that the United States commission in cutting down the prices it had agreed to pay by its agents to the said Moody & Co. was entirely unwarranted, and that by so doing a great wrong and serious pecuniary loss was entailed on the said firm of Moody & Co. It may be pertinently asked why this claim was not before presented for action by Congress. The reply is found in the sworn statement of Mr. Kiser, who states that soon after this transaction occurred the building in which the firm kept its papers caught fire, and that all the papers pertaining to this claim were burned and their evidence was lost; that subsequently they learned that there was a record of the transaction in the Department at Washington, and thus, by the courtesy of Hon. B. J. Hall, late a member of Congress, they obtained a copy of the records during the year 1886. This bill was pending in the Forty-ninth Congress, but was not reached by the Committee on War Claims. In view of all the facts in this case, your committee recommend that the bill be amended by striking out of the fourth line the words "forty thousand dollars," and inserting the words "eight thousand four hundred and forty-six dollars and eighty-five cents," and that so amended the bill be passed.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 280.

JAMES R. WYRICK.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3179.]

The Committee on War Claims, to whom was referred the bill (H. R. 3179) for the relief of James A. Wyrick, having examined and considered the same, report the same back to the House with a recommendation that it do pass.

This same matter was favorably reported in the Fifty-first Congress and we adopt the report then made, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. 11426) for the relief of James R. Wyrick, authorizing the payment to him of $200, as the value of a mule furnished the Army of the United States during the late war, having examined and considered the same, report the same back to the House favorably at $150, and, with this amendment, recommend that it do pass.

It is satisfactorily and fully shown that this man was loyal, and that he took the prescribed oath on the 27th day of December, 1864, and that on or about the 12th day of December, 1864, while on the way to the Union lines, and when near Rodgersville, Tenn., Col. Sisemor, of the Union Army, took said mule and ordered him to report at Knoxville, where he would be given a voucher for said mule, and that he did so report soon after, but in the mean time Col. Sisemor had been relieved, and so did not give him a voucher, and that pending the delay incident to this said Wyrick left for the North and settled in Jackson County, Iowa, and has never before prosecuted his claim for pay for said mule.

In addition to this, he shows that he has resided in said Jackson County, Iowa, ever since, and that he is a man of character, reliability, and good standing.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 281.

A. S. LEE.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3496.]

The Committee on War Claims, to whom was referred the bill (H. R. 3496) for the relief of A. S. Lee, respectfully report:

This claim is for rent of a warehouse in Richmond, Va., occupied by the military authorities of the United States from October 1, 1865, to February 6, 1866, both inclusive. Claim stated at $630. Accompanying the papers is a voucher signed by M. S. Poland, lieutenant of ordnance, U. S. Army, certifying that "the within-mentioned warehouse has been used by the United States as an ordnance depot from the 1st day of October, 1865, to the 6th day of February, 1866, inclusive."

These vouchers are in duplicate, issued under form 22, as prescribed by the Army Regulations, containing the usual certificate that the United States is debtor to the parties named; that the account is just and correct; that the services were rendered as stated; and that they were necessary to the public service.

Your committee is of opinion that the contracts of the Government ought to be carried out, and the claim being supported by proper vouchers representing actual contracts, the committee therefore report back the bill and recommend its passage, with the following amendment:

In line 5, after "Lee," insert "of Richmond, Virginia."

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 282.

WILLIAM B. MORROW.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHELL, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5818.]

The Committee on War Claims, to whom was referred the petition of William B. Morrow, submit the following report:

This measure was considered by this committee during the first session of the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and report herewith a bill and recommend its passage.

[House Report No. 893, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2150) for the relief of W. B. Morrow, report as follows:

Your committee adopt the report hereto annexed, made by the Committee on War Claims of the Fiftieth Congress, and report back the bill and recommend its passage.

[Fiftieth Congress, second session. House Report No. 3824.]

The Committee on War Claims, to whom was referred the bill (H. R. 2981) for the relief of William B. Morrow, respectfully report:

That the claim is for stores and supplies taken from the claimant by the Army of the United States during the late war. Claim stated at $4,078.55.

It appears from the proof submitted that in September, 1862, United States troops took from the claimant's plantation, in Hardeman County, Tenn., for the use of the Army, quartermaster's stores and commissary supplies of the value of $4,078.55; that the claimant was throughout that war loyal to the Government of the United States.

Your committee are of opinion that the account is correct and just, and that the stores and supplies were taken as charged; that he has not received pay or compensation therefor from any source, either in whole or in part, but that the same is still due and owing to him from the United States, and report back the bill and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 283.

DANIEL J. OCKERSON.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 889.]

The Committee on War Claims, to whom was referred the bill (H. R. 889) for the relief of Daniel J. Ockerson, submit the following report:

The facts of this claim are fully stated in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 302, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 4260) for the relief of Daniel J. Ockerson, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own and report back the bill and recommend its passage with the following amendment:

Strike out the word "Oekerson" wherever it appears in the bill and insert in lieu thereof "Ockerson."

[House Report No. 2996, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 9794) for the relief of Daniel J. Ockerson, report as follows:

This is a claim for extra-travel pay from place of discharge to place of enrollment.

Claimant enlisted September 12, 1861, at Yreka, Cal., in Company A, Fifth Regiment of California Volunteers. He was mustered out of service November 30, 1864, at La Mesilla, N. Mex. He filed his claim in the Second Auditor's office, and it was disallowed January 8, 1886, for the reason that he did not return to the place of enrollment.

The revised United States Army Regulations of 1861 give to honorably discharged soldiers traveling pay to the place of enrollment, the distance to be estimated by the shortest mail route (act of March 2, 1867, 14 Statutes at Large, page 435), all rules as to pay, rank, duties, etc., to apply alike to officers and soldiers of the regular Army and of the volunteer service.

Your committee therefore report back the bill and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 284.

E. J. ALDRICH.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DOLLIVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 890.]

The Committee on War Claims, to whom was referred the bill (H. R. 890) for the relief of E. J. Aldrich, submit the following report:

This measure was considered by this committee during the first session of the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 302, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 4259) for the relief of E. J. Aldrich, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 2516, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3155) for the relief of E. J. Aldrich, have had the same under consideration, and beg leave to report as follows:

The beneficiary, E. J. Aldrich, claims to be the owner of a claim once owned by one H. A. Millen, for cotton seized and appropriated by the United States Government. In 1871 prosecution therefor was commenced in the Court of Claims. In December, 1876, a motion was filed to dismiss the case on the ground that the cause of action was barred by the statute of limitation; which motion was afterwards sustained. The claimant is an old man and greatly in need financially of the relief demanded if he is entitled thereto. His loyalty is unquestioned and unquestionable, and his claim appears to have merit in it. The bar of the statute of limitation prevents him from establishing the same. All he asks in the bill is that this bar may be removed and he permitted to establish his claim, if he can, in the Court of Claims.

The committee recommend the passage of the bill.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 285.

MARY ELLEN ATKINSON, ADMINISTRATRIX OF RICHARD ATKINSON, DECEASED.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2029.]

The Committee on War Claims, to whom was referred the bill (H. R. 2029) for the relief of Mary Ellen Atkinson, administratrix of Richard Atkinson, deceased, submit the following report:

The facts of this claim are fully stated in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 568, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3637) for the relief of Richard Atkinson, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 150, Fiftieth Congress, first session.]

That the claimant in this case, Richard Atkinson, a citizen of New York City, was the owner of certain property in the city of Nashville in 1864 and 1865, which was used and occupied by officers of the U. S. Army for governmental purposes; that he took no written lease for the use of the property, but the quartermaster in charge at Nashville issued and delivered to him vouchers for rent at rates agreed upon verbally.

That upon the 14th day of October, 1866, said rent vouchers, amounting to the sum of $1,185, were presented by his attorneys to the Quartermaster-General at Washington, D. C., for payment. The Quartermaster-General referred said vouchers on January 30, 1872, to the Third Auditor of the Treasury for his action. The letter of the Quartermaster-General to claimant is herewith attached, marked A.

On the 8th of March, 1872, the First Auditor decided that under the provisions of the act of February 21, 1867, the accounting officers were prohibited from acting on claims for rent in the State of Tennessee. The letters herewith attached, marked B.

The claimant accordingly applies to Congress for relief.

Your committee find that claimant is justly entitled to the amount claimed. The vouchers show and the letters of the officers show him entitled to the full amount, $1,185, and accordingly recommend the passage of the bill.

EXHIBIT A.

WAR DEPARTMENT, QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., January 30, 1872.

SIR: The six inclosed certified accounts in favor of Richard Atkinson, of Tennessee, for rent in 1864 and 1865, stated respectively at $120, $150, $120, $120, $225, and $450, are respectfully forwarded for action of the accounting officers.

The service has been reported to this office, as required by regulations.

The attorneys were advised November 17, 1868, that under existing laws and decisions, claims for rent arising in Tennessee during the war could not be paid.

I am, very respectfully, etc.,

By order Acting Quartermaster-General.

M. I. LUDINGTON,
Quartermaster, U. S. Army.

The THIRD AUDITOR U. S. TREASURY,
Washington, D. C.

EXHIBIT B.

In the matter of the claim of Richard Atkinson, for rent of property at Nashville, Tenn., during the years 1864 and 1865, stated at $1,185.

DECISION BY THIRD AUDITOR.

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
March 8, 1872.

Six certified accounts in favor of Richard Atkinson for rent of property at Nashville, Tenn., during the years 1864 and 1865, stated respectively at $120, $150, $120, $120, $225, and $450, are presented by Messrs. Hughes, Denver & Peck, of this city, for payment.

The claims are barred from settlement by act of Congress February 21, 1867, which prohibits from settlement all claims for the use and occupation of, or injury to, real estate, originating in an insurrectionary district and during the late war of the rebellion.

The entire claim is, therefore, disallowed.

ALLAN RUTHERFORD,
Auditor.

EXHIBIT C.

TREASURY DEPARTMENT,
February 15, 1886.

SIR: In compliance with the request contained in your communication of the 9th instant, I have the honor to forward herewith the original papers from the files of the Third Auditor, in the claim of Richard Atkinson, No. 38230.

As these papers belong to the permanent archives of this Department, I will thank you to return them to this office when no longer required by your committee.

Respectfully, yours,

D. MANNING,
Secretary.

Hon. GEORGE W. GEDDES,
Chairman Committee on War Claims, House of Representatives.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 286.

ROBERT TRAVILLA.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3119.]

The Committee on War Claims, to whom was referred the bill (H. R. 3119), for the relief of Robert Travilla, submit the following report:

The facts of this claim are fully stated in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 885, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 7472) for the relief of Robert Travila, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 2012, Fiftieth Congress, first session.]

This bill is for the relief of Robert Travila, a private soldier of Troop K, First United States Cavalry.

The application on behalf of this soldier alleges that he lost by accident, not carelessness, a Spencer carbine—property of the United States—and that he was charged $100 for it and the said sum was deducted from his pay and withheld from him and never paid to him, and he now demands repayment of the difference between the price charged and the cost of the weapon, $75.

The committee inquired of the War Department, and are informed by letter from the Adjutant-General's Office that the records of that office show that Private Robert Travila, Troop K, First United States Cavalry, was charged on muster roll for January and February, 1868, $100 for loss, "through carelessness," of one Spencer carbine. The charge was made in accordance with the provision of General Orders No. 19, dated March 16, 1867, War Department, which provides that enlisted men who may dispose of or lose through their own carelessness the Spencer carbine will have charged against them upon the muster rolls the price of the arm at $100.

It appears that this soldier was traveling with his troop in Arizona in 1867, in a mountainous region, and strapped his gun on his saddle, and it must have slipped out and was lost, which may have been carelessness, but not criminal, and perhaps not at all gross carelessness even.

A letter of Chief of Ordnance states that a Spencer carbine now costs $10.67; it perhaps cost $24.40 in 1867, and as far west as Arizona.

If the Secretary of War had the power to deprive a soldier of his salary in time of peace, which is not admitted, the fact is that the Government has $75.60 of the money earned by this soldier now in its possession, and ought to give it up.

The committee therefore report the bill back, with the recommendation that it pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 287.

LUCY ANN LEE AND ALLEN G. LEE.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4646.]

The Committee on War Claims, to whom was referred the bill (H. R. 4646) for the relief of Lucy Ann Lee and Allen G. Lee, submit the following report:

The facts of this claim are fully stated in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 2164, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2736) for the relief of Lucy Ann Lee and Allen G. Lee, report as follows:

This is a claim for supplies alleged to have been taken from William Wade, deceased, of the Indian Territory, by the Army of the United States, in the year 1863. Claim stated at $6,150. The petitioners made no complaint to the War Department nor asked any relief from that quarter. This long delay they explain by alleging that they sent their vouchers for the property taken to an attorney, and he failed to file in the War Department.

It seems to your committee that an investigation by the Secretary of War, or under his direction, is a matter of necessity before intelligent action can be had upon this case. And the history of the transaction is susceptible of proof; and while this is true, the committee desire the benefit of such proof outside of the *ex parte* statements of the petitioners and their friends.

The committee therefore report herewith the bill, conferring power upon the Secretary of War to have the case investigated through the Quartermaster's Department, and to report the result, with his recommendation thereon, to Congress for its action in the premises.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 288.

FIRST LIEUT. JAMES REGAN, U. S. ARMY.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1046.]

The Committee on War Claims, to whom was referred the bill (H. R. 1046) for the relief of First Lieut. James Regan, submit the following report:

This measure was considered by the Committee on Military Affairs of the Senate of the present Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

Senate Report No. 44, Fifty-second Congress, first session.

Mr. MANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 859.]

The Committee on Military Affairs, to whom was referred the bill (S. 859) entitled "A bill for the relief of First Lieut. James Regan, U. S. Army," have had the same under consideration and report it back favorably, amended, and with the title amended, and recommend its passage.

Lieut. Regan has been promoted to a captain and your committee therefore amend the title of the bill so as to read, "For the relief of *Captain* James Regan, U. S. Army," and they also strike out the words "first lieutenant" in lines 4 and 5 of the bill and the word "lieutenant" where it appears in lines 9 and 11, and in each case substitute the word "captain," making the bill read as follows:

A BILL for the relief of Captain James Regan, United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury are hereby authorized and directed to credit the accounts of Captain James Regan, regimental quartermaster, Ninth Regiment of Infantry, United States Army, for a shortage of subsistence stores at Fort D. A. Russell, occasioned by the dishonesty of Commissary-Sergeant James Boling, without misconduct on the part of Captain Regan, with the sum of two thousand five hundred and ninety-eight dollars and fifty-seven cents, and said Captain Regan is discharged from paying the same.

This bill as introduced at this session secured a favorable report from the Senate Military Affairs Committee at the second session of the Forty-ninth Congress, and it was likewise reported favorably by the same committee during the Fifty-first Congress (S. Rep. 420), the report in the Forty-ninth Congress (S. Rep. 1783) being as follows, which your committee adopts as its own, substituting the word "captain" where the words "first lieutenant" is applied to said Regan.

The Committee on Military Affairs, to whom was referred the bill (S. 3013) for the relief of First Lieut. James Regan, having carefully examined the same, and papers submitted therewith and letters from Brig. Gen. Robert Macfeely, Commissary-General, U. S. Army, and Brig. Gen. S. V. Benét, Chief of Ordnance, acting as Secretary of War, which latter are hereto annexed and made a part of this report, submit the following report:

This bill authorizes and directs the proper accounting officers of the Treasury to credit the account of First Lieut. James Regan with the sum of $2,598.57, the amount of shortage of military stores at Fort D. A. Russell, Wyo.

This shortage arose while Regan was acting at said post as acting commissary of subsistence, and was occasioned by the conceded misconduct and dishonesty of Commissary-Sergeant James Bowling.

The situation at the post at the time this shortage occurred commended itself to the minds of your committee as an important consideration. It was this: Regan was regimental quartermaster, and he was also performing the duties of acting commissary of subsistence at this eight-company post, one of the largest in the Department of the Platte. Whilst so engaged and awaiting the arrival of a new commissary-sergeant, ordered to duty in place of Commissary-Sergeant Bowling, he was imperatively ordered, and he proceeded, to a post 300 miles distant to act as judge-advocate of a general court-martial. While he was absent the commissary-sergeant (Bowling) deserted, leaving the shortage for which credit is asked.

The established rule is (Regulations 1735) that "when it can be avoided officers personally accountable for public property will not be detailed for service or duty which will separate them from such property."

And in recognition of the fact that the double duties thus imposed upon Lieut. Regan at this time were regarded as too burdensome to enable him to give them in detail close personal supervision, there was issued from department headquarters, soon after Bowling's desertion, the following order:

"In view of the many details requiring the personal attention and supervision of acting commissaries of subsistence at posts of more than two companies, post commanders of such posts will not devolve the duties of acting commissary of subsistence upon the officer who is performing the duties of acting assistant quartermaster at the post."

The board of survey, in its report, seems to have misapprehended some of the facts, but concedes that the order to Lieut. Regan to proceed 300 miles distant at such a time and under such circumstances was unfortunate and unadvised.

It is now denied that Lieut. Regan took the required monthly inventories, and if he relied, in the multiplicity of his duties and the details thereof, upon Sergeant Bowling, to note the same on his returns it was simply what an average man of good and strict business habits would have confided to a subordinate who had the reputation given to Sergeant Bowling by his comrades and superiors.

The post commander says of Bowling: "I placed the fullest confidence in him."

In fact, Bowling had been selected from the line of the Army on account of his intelligence. He was a picked man, carefully selected from comrades of integrity. He simply took the advantage of a man overburdened with double duties and numerous details when he knew his superior reposed a confidence in him.

The commissary-sergeant selected by the War Department was placed on duty as the subaltern of Lieut. Regan by the Department. That officer had no power to displace or remove him, and had the unquestioned right to rely upon him, not only because of his apparently well-established character, but because of this selection and assignment to duty.

Lieut. Regan's record is without a spot or a blemish. He had seen twenty-seven years of responsible service, having been acting commissary of subsistence at Fort Laramie, in Wyoming, where he had charge of large and valuable stores. Both he and the methods in which he performed his duties are highly commended by many officers in the service.

In view of these facts, your committee does not think that Lieut. Regan reposed such a confidence in this subordinate as to be equitably, fairly, or justly chargeable with this shortage; and it accordingly reports the bill back and recommends its passage.

WAR DEPARTMENT,
Washington City, January 24, 1887.

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant inclosing Senate bill No. 3013, Forty-ninth Congress, second session, to credit the account of First Lieut. James Regan, late acting commissary of subsistence at Fort D. A. Russell, Wyo., with $2,598.57, and requesting my opinion upon the merits of the bill, or a statement of any objections that may exist to its passage.

In reply, I beg to inclose a report, of the 10th instant, from the Commissary-General of Subsistence, who gives his reasons for not being able to recommend that credit be given the officer for the stores lost, and states that if Congress shall see fit, as an act of grace, to grant the relief sought by the bill, there seems to be no serious objection to its passage.

I have nothing to add to the views of the Commissary-General of Subsistence, and concur in his recommendation.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brig. Gen., Chief of Ordnance,
Acting Secretary of War.

Hon. C. F. MANDERSON,
Of the Committee on Military Affairs, United States Senate.

WAR DEPARTMENT,
OFFICE COMMISSARY-GENERAL OF SUBSISTENCE,
Washington, D. C., January 10, 1887.

SIR: I have the honor to return herewith the letter of January 6, 1887, from the Hon. C. F. Manderson, United States Senate, inclosing a copy of a bill (S. 3013, second session, Forty-ninth Congress) for the relief of First Lieut. James Regan, referred to me for report.

In this case of the loss of a considerable quantity of subsistance stores at Fort D. A. Russell, Wyo., for which Lieut. James Regan, Ninth Infantry, and acting commissary of subsistence, was responsible, I never have suspected any dishonesty or willful misconduct on the part of Lieut. Regan. The losses doubtless resulted from dishonest practices by the commissary-sergeant through an extended period. These practices should, under the system of monthly inventories required by regulations, have been detected long prior to the culmination of the matter in the desertion of the sergeant. The proceedings of the board of survey in the case and Lieut. Regan's own statement indicate that the officer, having too great confidence in the sergeant, did not give the close personal supervision and attention to the details of his duty necessary to his own protection and the protection of the interests of the United States.

For these reasons I was not able to recommend to the Secretary of War that credit be given the officer for the stores lost. If, however, Congress shall see fit, as an act of grace, to grant the relief sought by the bill, there seems to be no serious objection to its passage.

Respectfully, your obedient servant,

R. MACFEELY,
Commissary-General of Subsistence.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 289.

WILLIAM J. ALEXANDER.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2904.]

The Committee on War Claims, to whom was referred the bill (H. R. 2904) for the relief of William J. Alexander, submit the following report:

This measure was considered by this committee in the Forty-fourth Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill with the following amendment:

In lines 5, 6, and 7 strike out "together with interest thereon from the twenty-second day of November, eighteen hundred and sixty-three," and in line 7 strike out "out of money," and insert "out of any money in the Treasury."

[House Report No. 636, Forty-fourth Congress, first session.]

In the claim of William J. Alexander, of Bloomington, Monroe County, Ind., the Committee on War Claims submitted the following report:

The evidence in this case shows the following facts:

That said William J. Alexander was employed as a detective in the secret service of the United States by order of Brig. Gen. O. B. Wilcox, who was in command of a department at that time which comprised within it the State of Indiana.

That said employment was made on or about the 3d day of July, 1863, at the rate of $125 per month; that Mr. Alexander continued in said service until about the 20th day of December following; that said Gen. Wilcox continued in command of said department until the 13th day of September, 1863, when he was superseded by Col. Simonson; that said Alexander had neither been paid by said Wilcox nor any other person, or notified to quit the service, when said Wilcox was superseded in his command; that on the 22d day of November, 1863, said Alexander, through his attorney, James B. Mulky, received a draft for $311 in full for services and expenses up to September 13, 1863, as such detective, and at the same time was notified that he could only receive pay up to said 13th day of September for the reason that said Brig. Gen. Wilcox's command expired at that time.

The facts further show that said Alexander applied to Col. Simonson for his pay from the 13th of September, 1863, to the 22d day of November following, when he, through his said attorney, was notified that he could only receive pay to September 13 as aforesaid, and that Col. Simonson refused payment to him for two reasons: first, that he had no money with which to pay; and second, that he had not employed him. Said Alexander afterward applied to the War Department for pay and was refused, because the records of that Department did not show either the employment or service of said Alexander as such detective as aforesaid.

Your committee are satisfied from the evidence that said Alexander was employed

as such detective by order of said Gen. Wilcox, and that he continued in such se ice from July 3, 1863, to November 22 following, without any notice to quit the se ice when Gen. Wilcox was superseded in his command by Col. Simonson as aforesa and that he was never paid for such services from September 13 to November 22 f lowing, in the year 1863.

Your committee believe that it is unjust not to pay for such service from Septe ber 13 to November 22, following. It therefore reports a bill for $250, in full, for services by said Alexander as such detective.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 290.

BATTELLE & EVANS.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1889.]

The Committee on War Claims, to whom was referred the bill (H. R. 1889), for the relief of Battelle & Evans, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 1910, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3028) for the relief of Battelle & Evans, having duly considered the same, report it back with the recommendation that it do pass.

In February, 1862, Battelle & Evans entered into a contract with the United States to furnish fresh beef to Gen. Lander's division, then stationed along the line of the Baltimore and Ohio Railroad, between New Creek (now Keyser), W. Va., and Cumberland, Md., at a fixed price per pound, reserving to the contractors the hides and tallow of the slaughtered animals, which, being on the line of the railroad, made this condition a valuable part of the contract. While this contract was in force the Army, in May, 1862, was ordered into active service under Gen. Fremont, and these contractors were directed to follow the Army on its forward movement and continue to supply it with fresh beef. No fixed price was agreed upon, but the commissary assured them that they would be fairly dealt with, and that the Government would furnish transportation for the hides and tallow back to the line of the railroad.

In pursuance of this arrangement Battelle & Evans followed up the Army and supplied it, but when their accounts were presented the accounting officers would allow only the price fixed in the written contract, and while the claim was being prosecuted before the Departments, which the Court of Claims then required to be done, the statute of limitation barred its presentation to the court.

In 1872 Congress authorized the Court of Claims take up and pass upon the claim for "cattle and beef sold and delivered" (17 Stats., 651), but no allowance was made for the damage arising by reason of the failure of the United States to furnish transtransportation for the hides and tallow. (8 C. Cls. R., pp. 299, 305.)

The relief granted by the bill only extends to the claimants the right to present their claim to the Court of Claims. Their failure to present it in time grew out of the decision of the Court of Claims in the Clyde case (5 C. Cls. R., 134) to the effect that the court could not entertain a case until it had finally been acted upon in the Departments. The six years' limitation elapsed while this claim was so pending, and when, afterwards, the case was presented to the court, the Clyde case having been reversed, the court held the case to be barred.

We think the claimants ought to have an opportunity to present their claim, which, in the first instance, they lost by the erroneous decision of the court in the Clyde case.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 291.

TRUSTEES OF THE CATHOLIC CHURCH AT DALTON, GA.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2954.]

The Committee on War Claims, to whom was referred the bill (H. R. 2954) for the relief of the trustees of the Catholic church at Dalton, Ga., submit the following report:

This claim was presented to the Fifty-first Congress and favorably reported on by the Committee on War Claims. Said report is hereto attached and made a part of this report.

Your committee concur in the findings therein contained and recommend that the bill referred to them do pass.

[House Report No. 331, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3453) for the relief of the trustees of the Catholic church at Dalton, Ga., submit the following report:

That the trustees of the Catholic church at Dalton, Ga., ask an appropriation of $5,000, to reimburse them for the loss of their church building, which was used by the Federal Army in 1864 and 1865 as a smallpox hospital, and afterwards burned by the orders of the commander of the post to prevent the spread of smallpox.

It appears from the proof submitted that in 1864 the officer in command of the United States troops at the post of Dalton took and used for a hospital the said church; afterwards the church was used solely for those suffering from smallpox; that after the disappearance of the smallpox there were great fears by citizens of Dalton, as well as the Federal soldiers, that the contagion would again spread unless said church was destroyed; that, with this fear, a committee of citizens called upon Gen. Judah, commander of the Federal Army at Dalton, and urged him to adopt some decisive measure to prevent the spread of the contagion. Gen. Judah informed the committee that the only certain way to prevent the spread of the contagion was to burn the edifice, and he issued an order to that effect; and the church was burned that day.

Your committee is of the opinion that the Government should reimburse the trustees of this church for their loss, and recommend that the bill do pass.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 292.

FIRST BAPTIST CHURCH, OF CARTERSVILLE, GA.

FEBRUARY 11, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1234.]

The Committee on War Claims, to whom was referred the bill (H. R. 1234) for the relief of the First Baptist Church, of Cartersville, Ga., submit the following report:

This claim was presented to the Fifty-first Congress and a favorable report was made thereon by the Committee on War Claims. Said report is hereto attached and made part of this report.

Your committee concur in the findings therein contained and recommend that the bill referred to them do pass.

[House Report No. 329, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3452) for the relief of the First Baptist Church, of Cartersville, Ga., respectfully report as follows:

The proof filed in support of the bill shows that in the year 1864, while the Army of the United States were in possession of said town of Cartersville, that the Baptist Church building was torn down by them and the brick and lumber of said church building was used by said United States soldiers in building for themselves quarters and in building chimneys to their tents. The brick and lumber taken and used by the Army was valued at the time at $5,000.

Capt. George A. Clarke, late provost-marshal, makes the following affidavit:

That from July 5, to November 12, 1864, he was captain of Company H, Fourth Minnesota Volunteer Infantry, and provost-marshal of the Third Division of the Fifteenth Army Corps, U. S. Army, and was stationed and in charge at Cartersville, Ga., and was well acquainted with the circumstances of the destruction of the First Baptist Church of said city. That about the last of the month of September or the first part of the month of October, 1864, a portion of the cavalry troops belonging to the command of Gen. McCook were stationed in said city, and they took and carried away for the construction of huts and shelters for themselves, the seats and pews of said church, and also stabled their horses in said church, and that afterwards, during the same fall, said troops and other United States troops tore down the walls of said church and used the brick and other materials of said building for the erection of chimneys to their huts and tents, and for their use and comfort. That said church was the property of the Baptist Church of said city to the best of deponent's knowledge and belief, and was used by them as a place of worship, and was a nice brick church worth from $5,000 to $7,000. That said United States troops received the full benefit of the materials of said church buildings and the use thereof.

GEORGE A. CLARKE,
Late Captain Fourth Minnesota Volunteer Infantry, and Provost-Marshal Third Division, Fifteenth Army Corps, U. S. Volunteers.

Sworn to and subscribed before me this June 24, 1889.

F. M. DURHAM,
Clerk Supreme Court, Bartow County, Ga.

Your committee, in view of the foregoing statement of facts, report herewith a substitute for the bill and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 293.

ASSISTANT DOORKEEPER.

FEBRUARY 11, 1892.—Ordered to be printed.

Mr. DICKERSON, from the Committee on Accounts, submitted the following

REPORT:

The Committee on Accounts, to whom was referred the resolution entitled "A resolution to appoint Walter F. Halleck as an assistant doorkeeper," have had the same under consideration and report it back to the House with the recommendation that it do pass, with the following amendment: Strike out "one thousand five hundred dollars" and insert in lieu thereof "one thousand two hundred dollars."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 294.

AMENDMENT TO THE CONSTITUTION.

FEBRUARY 12, 1892.—Laid on the table and ordered to be printed.

Mr. BUCHANAN, of Virginia, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. Res. 43.]

The Committee on the Judiciary, to which was referred House resolution No. 43, has had the same under consideration and respectfully report the same back with a recommendation that it do not pass.

JOINT RESOLUTION proposing an amendment to the Constitution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment be proposed to the legislatures of the several States, which, when ratified by three-fourths of said legislatures, shall become and be a part of the Constitution, namely:

"ARTICLE —.

"SECTION 1. Congress shall have sole power to coin and issue money, and regulate the value thereof; this power shall not be delegated, either in whole or in part, to any individual, corporation, or association. All money coined or issued shall be a full legal tender in payment of all debts, public and private, any contract to the contrary notwithstanding.

"SEC. 2. The provisions of the foregoing section shall not be held to apply to the unexpired charter of any national bank, or any contract between creditor and debtor, which may be in force at the time this amendment goes into effect."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 295.

ADDITIONAL CLERK FOR DISTRICT AND CIRCUIT COURT, EASTERN DISTRICT OF ARKANSAS.

FEBRUARY 12, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. EZRA B. TAYLOR, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 5891.]

The Committee on the Judiciary, to whom was referred House bill 3994, having had the same under consideration, beg leave to report that they approve the purpose of the bill, which is to authorize the appointment of an additional clerk for the district and circuit courts each of the eastern district of Arkansas, whose residence and office shall be at Texarkana.

There are three divisions of said district, and the courts are held at Little Rock, Helena, and Texarkana. Clerks are already provided for the courts held at the first two named places, while the office at Texarkana is conducted by the deputy of the clerks of the Little Rock division, an arrangement unsatisfactory to all concerned. No additional expense will be incurred by the passage of this bill.

The committee, to conform to the lines of former legislation, report a substitute for the bill and recommend its passage, and that the bill lie on the table.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 296.

SWAMP-LAND GRANTS.

FEBRUARY 12, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. MCRAE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 5892.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 2630) to adjust the swamp-land grants, to fix a limitation for the filing of claims thereunder, and for other purposes, have had the same under consideration, and report the accompanying substitute therefor with the recommendation that it pass.

The act approved March 2, 1849 (9 Stat. L., 352), granted to the State of Louisiana the whole of the swamp and overflowed lands in said State found unfit for cultivation, with the exception of those tracts fronting on rivers, creeks, bayous, etc., surveyed into lots or tracts under the acts of March 31, 1811, and May 24, 1824.

The act of September 28, 1850 (9 Stat. L., 519), granted to the public-land States then in the Union the whole of the swamp and overflowed lands remaining unsold within their limits made unfit thereby for cultivation, and the Secretary of the Interior was, by the second section of said act, plainly directed to make out accurate lists and plats of the swamp lands and transmit the same to the governors of the States interested. He failed to make such selections and segregation of the lands granted. This failure or neglect has been the source of a great deal of controversy between the States and the Interior Department, and also of much vexatious and expensive litigation between those claiming under the grant and those adverse to it.

The Secretary of the Interior, instead of doing what the law intended he should, allowed the States the option of adopting one of two methods, as follows:

(1) The field notes of Government survey to be taken as the basis of selections, and all lands shown by them to be swamp or overflowed within the meaning of the granting act to be placed in the lists to be reported to the General Land Office.

(2) The States to make the selections by their own agents and at their own cost, and report the same to the surveyor-general with the proof of the swampy character of the land.

Alabama, Arkansas, Indiana, Louisiana, Michigan, Minnesota, Mississippi, Ohio, and Wisconsin have adopted method No. 1, and agreed to settle by the field notes.

Florida, Iowa, Illinois, and Missouri have adopted method No. 2 and make selections in the field.

The act approved March 12, 1860, extended the grant of September 28, 1850, to the States of Minnesota and Oregon. California, by the

act approved July 23, 1866, was granted the same character of lands within her limits, but the method of selecting was much simplified in that act and the adjustment has been much easier than in the other fourteen swamp-land States.

The act of September 28, 1850, granted the whole of the swamp and overflowed lands made thereby unfit for cultivation and unsold at that time to the States. It was an unconditional grant *in præsenti* and conveyed to the respective States all such lands. Although the language of the grant is perfectly plain and unambiguous, yet it has been the subject of consideration and construction in various courts, both State and national. The scope and tenor of the decisions will clearly appear from the following quotation from the decision of the Supreme Court of the United States in the case of Railroad Company *vs.* Smith (9 Wall., 95):

> The act of September 28, 1850, was a present grant by Congress of certain lands to the States within which they lie, but by a description which requires something more than a mere reference to their townships, ranges, and sections to identify them as coming within it. * * *
>
> By the second section of the act of 1850 it was made the duty of the Secretary of the Interior to ascertain this fact, namely, what tracts were so swampy, overflowed, and wet as that the major parts thereof were unfit for cultivation, and furnish the State with the evidence of it. Must the State lose the lands, though clearly swamp land, because that officer has neglected to do this? The right of the State did not depend on his action, but on the act of Congress, and though the State might be embarrassed in the assertion of this right by the delay or failure of the Secretary to ascertain and make out lists of these lands, the right of the State to them could not be defeated by that delay.

Again, in the case of French *vs.* Fyan *et al.* (3 Otto, 169), the court said:

> This court has decided more than once that the swamp-land act was a grant *in præsenti*, by which the title to those lands passed at once to the State in which they lay, except as to States admitted to the Union after its passage.

See, also, in the same line and to the same effect the following cases: Railroad Company *vs.* Fremont County (9 Wallace, 89); Martin *vs.* Marks (7 Otto, 345); decisions of Secretary of the Interior, December 23, 1851 (1 Lester's L. L., 549); April 25, 1862, and opinion of Attorney-General, Nov. 10, 1850 (1 Lester's L. L., 564).

Such have been the decisions of the courts without exception, the latest decision being the case of the United States against Louisiana (127 U. S., 182).

While the act did not by legal subdivisions describe the land so that it could be located, the third section fixed a criterion by which it could be easily ascertained and found, to wit: "All legal subdivisions, the greater part of which is [September 28, 1850] wet and unfit for cultivation." To all such lands the title passed as of the date of the grant.

The failure of the Secretary of the Interior to make the list and plats, and his action in allowing the local land officers to continue to dispose of the lands granted, became such a grievance that Congress passed two remedial acts. The first of these was approved March 2, 1855 (10 Stat., 634), and granted relief to the purchasers and locators of swamp and overflowed lands by giving the States the purchase money for all such lands theretofore sold, and allowing dry lands of like quantity for such as had been otherwise disposed of. This act was not made prospective and continuing, as it ought to have been.

Other difficulties arose about the selections made by the States, and so Congress again, on March 3, 1857 (11 Stat., 251), passed an act declaring that the selections of swamp and overflowed lands granted to the

States by the act of September 28, 1850, theretofore made and reported to the General Land Office, so far as the same remained vacant and unappropriated and not interfered with by actual settlement under existing laws of the United States, were confirmed and approved for patent, and it in express terms extended and continued in force until that time the provisions of the act of March 2, 1855.

The status of the grant as it now exists and is construed by the Department may be stated as follows:

(1) The swamp-land States to which the grant applies are entitled to all the swamp and overflowed lands situated therein, as defined in the grant, not disposed of prior to September 28, 1850, the date of the grant.

(2) The said States are entitled to the purchase money for all such swamp lands as were sold by the United States for cash, between September 28, 1850, and March 3, 1857.

(3) And they are entitled to have dry lands as indemnity for all such swamp lands as were disposed of otherwise than by sale between September 28, 1850, and March 3, 1857. Under this bill, if it should become a law, indemnity equal to the amount of the purchase money received by the United States, or if the land was otherwise disposed of than by sale, then the minimum price at which it was held at the time it was disposed of, will be given in lieu of dry-land indemnity, adhering to the present policy of the Government of keeping the lands for actual settlers.

(4) No indemnity either in land or money is now allowed the States for swamp lands that may be erroneously sold or disposed of by the United States, since the act of March 3, 1857. In all such cases the purchasers from the United States or settlers under the public-land laws as the case may be, must lose the land or buy in the title from the State or its grantee. All the Government can do is to refund the purchase money without interest. When such purchasers or settlers are evicted they come to Congress for relief or accept a return of the purchase money they have paid, which may be refunded, under section 2362 of the Revised Statutes. This bill, if it becomes a law, would give the purchase money to the State whose land was erroneously sold and at the same time confirm the title to the purchaser from the United States, and thus end all trouble and litigation.

This is but simple justice to the purchaser and settler, and costs the United States nothing. If the States are willing to this settlement the United States certainly ought not to object.

The bill does not in the least enlarge the original grant, and makes no change whatever in the adjustment of it.

The purpose of the committee is to end this matter, and they have fixed a limitation of two years as the time within which all claims shall be presented. Heretofore there has been no limitation. New claims are being presented every year. Last year a large number were presented and allowed, and they still continue to come in. Here is what the Commissioner of the General Land Office said in his last report upon this point:

For more than a decade the Government has, at great expense, employed special agents to examine land selected in the manner indicated by the States and counties, upon which land or cash indemnity has been claimed. Notwithstanding the great expense incurred, it does not appear that the task is nearing completion. Under the law as it is the work seems interminable. The Department is without authority to prescribe any rule barring these claims by limitation. As long as agents can be secured with the powerful incentive of a very large contingent fee to stimulate their efforts claims will continue to be presented, unless Congress passes a law fixing a date beyond which such claims shall not be recognized by the Government. Unless such an

act is passed, the present force of examiners in the field and the clerical force in the General Land Office employed on swamp-land indemnity must be continued from year to year for an indefinite period of time.

While a statute of limitation, as to the time for selecting swamp land in place might not stand the test of judicial scrutiny, I am satisfied that Congress has the power to pass a statute of limitation with reference to indemnity, whether in land or in cash.

Considering the fact that about thirty-five years have passed during which these cash and land indemnity claims might have been presented, it appears that the period of three years more would be ample time within which all legitimate claims could be filed. I therefore earnestly urge that this matter be presented to Congress, with the recommendation that an act be passed forever barring all claims for cash, lands, or other indemnity under the swamp-land laws, after three years from the passage of the act.

This suggestion was approved by the Secretary of the Interior. In his last report he specially called attention to the necessity for the adjustment in the following language:

The Commissioner is of the opinion that within a period of three years all legitimate claims could be filed, and recommends legislation forever barring all claims for cash, land, or other indemnity under the swamp-land laws, not presented within three years from the date of the passage of such an act. As this privilege has existed since 1858 the period of limitation suggested would give ample time for the assertion of any claims not heretofore filed. There is necessity for Congressional action in the matter of the adjustment of these grants, and it is recommended that the matter be specially called to the attention of Congress.

APPENDIX.

AN ACT to aid the State of Louisiana in draining the swamp lands therein.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to aid the State of Louisiana in constructing the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands, which may be or are found unfit for cultivation, shall be, and the same are hereby, granted to that State.

SEC. 2. *And be it further enacted*, That as soon as the Secretary of the Treasury shall be advised by the governor of Louisiana, that that State has made the necessary preparation to defray the expenses thereof, he shall cause a personal examination to be made under the direction of the surveyor-general thereof, by experienced and faithful deputies, of all the swamp lands therein which are subject to overflow and unfit for cultivation; and a list of the same to be made out and certified by the deputies and surveyor-general to the Secretary of the Treasury, who shall approve the same, so far as they are not claimed or held by individuals, and on that approval the fee-simple to said lands shall vest in the said State of Louisiana, subject to the disposal of the legislature thereof: *Provided, however*, That the proceeds of said lands shall be applied exclusively, as far as necessary, to the construction of the levees and drains aforesaid.

SEC. 3. *And be it further enacted*, That in making out a list of these swamp lands, subject to overflow and unfit for cultivation, all legal subdivisions, the greater part of which is of that character, shall be included in said list; but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom: *Provided, however*, That the provisions of this act shall not apply to any lands fronting on rivers, creeks, bayous, water-courses, etc., which have been surveyed into lots or tracts under the acts of third March, eighteen hundred and eleven, and twenty-fourth May, eighteen hundred and twenty-four: *And provided further*, That the United States shall in no manner be liable for any expense incurred in selecting these lands and making out the list thereof, or for making any surveys that may be required to carry out the provisions of this act.

Approved March 2, 1849.

AN ACT to enable the State of Arkansas and other States to reclaim the "swamp lands" within their limits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands made unfit thereby for cultivation, which shall remain unsold at the passage of this act, shall be, and the same are hereby granted to said State.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Secretary of the Interior, as soon as may be practicable after the passage of this act, to make out an accurate list and plats of the lands described aforesaid, and transmit the same to the governor of the State of Arkansas, and at the request of said governor, cause a patent to be issued to the State therefor; and on that patent, the fee simple to said lands shall vest in the said State of Arkansas, subject to the disposal of the legislature thereof: *Provided, however,* That the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied, exclusively, so far as necessary, to the purpose of reclaiming said lands by means of the levees and drains aforesaid.

SEC. 3. *And be it further enacted,* That in making out a list and plats of the land aforesaid, all legal subdivisions, the greater part of which is "wet and unfit for cultivation," shall be included in said list and plats; but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom.

SEC. 4. *And be it further enacted,* That the provisions of this act be extended to, and their benefits be conferred upon, each of the other States of the Union in which such swamp and overflowed lands, known as designated as aforesaid, may be situated.

Approved September 28, 1850.

AN ACT for the relief of purchasers and locators of swamp and overflowed lands.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States cause patents to be issued, as soon as practicable, to the purchaser or purchasers, locator or locators, who have made entries of the public lands, claimed as swamp lands, either with cash, or with land warrants, or with scrip, prior to the issue of patents to the State or States, as provided for by the second section of the act approved September twenty-eight, eighteen hundred and fifty, entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," any decision of the Secretary of the Interior or other officer of the Government of the United States to the contrary notwithstanding: *Provided,* That in all cases where any State, through its constituted authorities, may have sold or disposed of any tract or tracts of land, to any individual or individuals, prior to the entry, sale, or location of the same, under the pre-emption or other laws of the United States, no patent shall be issued by the President for such tract or tracts of land, until such State, through its constituted authorities, shall release its claim thereto, in such form as shall be prescribed by the Secretary of the Interior: *And provided further,* That if such State shall not, within ninety days from the passage of this act, through its constituted authorities, return to the General Land Office of the United States a list of all the lands sold as aforesaid, together with the dates of such sale, and the names of the purchasers, the patents shall be issued immediately thereafter, as directed in the foregoing section.

SEC. 11. *And be it further enacted,* That upon due proof, by the authorized agent of the State or States, before the Commissioner of the General Land Office, that any of the lands purchased were swamp lands, within the true intent and meaning of the act aforesaid, the purchase money shall be paid over to the State or States; and where the lands have been located by warrant or scrip, the said State or States shall be authorized to locate a quantity of like amount upon any of the public lands subject to entry, at one dollar and a quarter per acre, or less, and patents shall issue therefor, upon the terms and conditions enumerated in the act aforesaid: *Provided, however,* That the said decisions of the Commissioner of the General Land Office shall be approved by the Secretary of the Interior.

Approved March 2, 1855.

AN ACT to confirm to the several States the swamp and overflowed lands selected under the act of September 28, 1850, and act of March 2, 1849.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the selection of swamp and overflowed lands granted to the several States by the act of Congress approved September 28, 1850, entitled "An

act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," and the act of March 2, 1849, entitled "An act to aid the State of Louisiana in draining the swamp lands therein," heretofore made and reported to the Commissioner of the General Land Office, so far as the same shall remain vacant and unappropriated, and not interfered with by an actual settlement under any existing law of the United States, be, and the same are hereby, confirmed, and shall be approved and patented to the said several States, in conformity with the provisions of the act aforesaid, as soon as may be practicable after the passage of this law: *Provided, however*, That nothing in this act contained shall interfere with the provisions of the act of Congress entitled "An act for the relief of purchasers and locaters of swamp and overflowed lands," approved March 2, 1855, which shall be, and is hereby, continued in force, and extended to all entries and locations of lands claimed as swamp lands made since its passage.

Approved March 3, 1857.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 297.

MILITARY POST ON LINE OF RAILWAY BETWEEN BURLINGTON AND HIGHGATE, VT.

FEBRUARY 12, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 462.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 462) to establish a military post on the line of railway between Burlington and Highgate, Vt., have examined the same and recommend that it do pass.

It is practically identical with Senate bill No. 4833 of the Fifty-first Congress, second session, which passed the Senate, and House bill No. 3394, which was reported favorably by House Committee on Military Affairs, except that it makes no appropriation, leaving the construction of the post to be provided for when it can be, out of the general appropriation for the construction of military posts. It meets the approval of the Secretary of War and the commanding general of the Army.

The location is at an important railway center from which several lines radiate to vital strategic points in Canada, and also to all parts of the New England States and New York. There is no point on the border where a more rapid concentration of troops could be made and none where they would be more available for necessary service in case of hostility between this country and Great Britain. The primary advantage of the location is its availability for operating against the St. Lawrence canals.

The committee believe that the establishment of a post in this locality will be more effective in case of hostilities and cost far less money than to build fortifications as have heretofore been proposed. The following correspondence shows the necessity for this legislation.

WAR DEPARTMENT,
Washington, December 17, 1890.

SIR: I return herewith H. R. 12258, "to provide for beginning the construction of a military post at or near Essex Junction or Swanton Junction, Vt.," referred to this Department on the 11th instant, and invite attention to the inclosed copy of a report dated the 16th instant, by the Major-General Commanding the Army, in whose views I concur.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON MILITARY AFFAIRS,
House of Representatives.

HEADQUARTERS OF THE ARMY,
Washington, D. C., December 16, 1890.

SIR: I have the honor to return the House bill 12258, entitled "A bill to provide for beginning the construction of a military post at or near Essex Junction or Swanton Junction, Vt.," with the following remarks:

However slight may seem the probability of any future rupture of friendly relations between the United States and Great Britain, the enormous naval power of the latter makes it necessary to take that country into account in the preparations made by the United States for defense against possible foreign aggression.

The problem of defense of the seacoasts is comparatively simple, while that of the northern frontier is more complicated. A passive defense of the northern line by the aid of fortification would be impracticable, for the reason that such defenses would not close the water ways lying wholly within the Dominion of Canada, by which British gunboats could enter the northern lakes. But even if such a passive defense were practicable it is presumed that the political policy of the United States would be wholly inconsistent with such a military policy in the event of war between the United States and Great Britain. That political policy would, it is presumed, demand prompt and energetic operations of an army in the field. The purely military policy would, fortunately, be entirely in accord with such political policy, for by that means the greatly superior power of the United States in its ability to bring into the field an army of any requisite strength could be made to more than counterbalance the immense naval power of Great Britain.

As a preparation for the execution of this harmonious political and military policy, in the event of any future necessity, it is necessary to maintain at proper points on the northern frontier the nucleus of troops of all arms—infantry, cavalry, and artillery—where the forces from the adjoining States might immediately unite to take the initiative in such military movements as might be requisite to prevent the enemy from using his water ways to move gunboats into the lakes.

With this end in view a cavalry station suitably located near the northern border of New England is requisite. An infantry and light-artillery garrison at Plattsburg and another at Madison Barracks are other essential features of this plan.

It is not practicable for the States to maintain, as a part of their national guard, any considerable effective force of cavalry or light artillery. It is therefore necessary for the United States to maintain at important strategic points such regular forces, especially light artillery and cavalry, as may be necessary in any emergency to act with the State forces constituting the main body of an army suddenly called into the field.

For these reasons I have the honor to recommend the bill above referred to to your most favorable consideration.

Very respectfully,

J. M. SCHOFIELD,
Major-General Commanding.

The SECRETARY OF WAR.

HEADQUARTERS OF THE ARMY,
Washington, D. C., January 20, 1892.

SIR: Referring to Senate bill No. 1233, introduced December 23, 1891, entitled "A bill to establish a military post on the line of railway between Burlington and Highgate, Vt.," I have the honor to report that the well-considered military policy of the United States, in view of the possible contingency of war with Great Britain, includes prompt and energetic aggressive action towards certain important strategic points in the Dominion of Canada. To be prepared for such action it is of vital importance that permanent military posts be maintained at convenient points near the northern frontier, at each of which may be stationed the nucleus of an army, to be composed mainly, in the event of war, of the State troops quickly assembled from the neighboring States.

The place named in this bill, on the line of railway between Burlington and Highgate, is perfectly well adapted to the purpose had in view, and I think it would be manifestly wise to commence at this time, so far as therein contemplated, the preparations for the establishment of such a post. I therefore recommend this bill to your favorable action.

Very respectfully,

J. M. SCHOFIELD,
Major-General Commanding.

The SECRETARY OF WAR.

WAR DEPARTMENT,
Washington, February 2, 1892.

SIR: I return herewith House bill 462, Fifty-second Congress, first session, "To establish a military post on the line of railway between Burlington and Highgate, Vt.," which was referred to this Department on the 30th ultimo, and beg to invite your attention to the inclosed copy of the report of the Major-General Commanding the Army, dated the 20th ultimo, on Senate bill No. 1233 of the present Congress, which is identical with the bill in question.

The views expressed by the major-general commanding are concurred in, and the bill is recommended for favorable consideration.

In this connection it may be remarked that this bill is practically the same as House bill 12258, House Report 3394, Fifty-first Congress, second session, to provide for the construction of a military post at or near Essex Junction, with the exception that an appropriation to begin the construction is omitted.

Very respectfully,

S. B. ELKINS,
Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON MILITARY AFFAIRS,
House of Representatives.

[Senate Report No. 104, Fifty-second Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 1233) to establish a military post on the line of railway between Burlington and Highgate, Vt., have examined the same and recommend that it pass.

The bill is practically the same as S. 4833, second session, Fifty-first Congress, "to provide for beginning the construction of a military post at or near Essex Junction, or Swanton Junction, Vt.," which passed, with the exception that the appropriation to begin the construction is omitted.

The proposed location is a very advantageous one, being near the Canadian frontier and at a point where troops from all New England and New York could be rapidly concentrated. It is also a location from which a large number of roads radiate to important Canadian points.

The plan of establishing posts where troops could be concentrated and from which they could move rapidly in the unfortunate event of trouble on that frontier, is deemed a great saving of cost over the plan formerly contemplated of fortifying points on the St. Lawrence River and Lake Champlain.

The report of Gen. Schofield is as follows:

HEADQUARTERS OF THE ARMY,
Washington, D. C., January 20, 1892.

SIR: Referring to Senate bill No. 1233, introduced December 23, 1891, entitled "A bill to establish a military post on the line of railway between Burlington and Highgate, Vt.," I have the honor to report that the well-considered military policy of the United States, in view of the possible contingency of war with Great Britain, includes prompt and energetic aggressive action toward certain important strategic points in the Dominion of Canada. To be prepared for such action it is of vital importance that permanent military posts be maintained at convenient points near the northern frontier, at each of which may be stationed the nucleus of an army, to be composed mainly, in the event of war, of the State troops quickly assembled from the neighboring States.

The place named in this bill, on the line of railway between Burlington and Highgate, is perfectly well adapted to the purpose had in view, and I think it would be manifestly wise to commence at this time, so far as therein contemplated, the preparations for the establishment of such a post. I therefore recommend this bill to your favorable action.

Very respectfully,

J. M. SCHOFIELD,
Major-General Commanding.

The SECRETARY OF WAR.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 298.

JANE A. WARD.

FEBRUARY 12, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HARRIES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 712.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 712) granting an increase of pension to Jane A. Ward, submit the following report:

Delos A. Ward served as a private in Company I, First Wisconsin Volunteers, from April 21, 1861, to August 21, 1861; as a sergeant and subsequently second lieutenant in Company F, Fourteenth Wisconsin Infantry, from November 11, 1861, to July 22, 1863; as captain Company I, Sixty-fifth United States Colored Troops, and Company E, Fifty-fifth United States Colored Troops, from January 25, 1864, until January 31, 1866; as captain Thirty-ninth United States Infantry, and Twenty-fifth United States Infantry from July 28, 1866, to January 1, 1871.

It is alleged that this soldier suffered from malarial fever in July, 1863, and the record shows his resignation accepted July 22, 1863, he being unfit for duty by reason of having suffered for ten months from chronic diarrhea; the record also shows him "wounded at battle of Corinth, October 3, 1862, in left arm and side, not serious," also "injured in back and hip in assault on Vicksburg, May 19 and 22, 1863."

This soldier never applied for pension. He died January 7, 1887, at Bellevue Hospital, New York City, from cancer of the neck, having been admitted to hospital November 10, 1886, suffering from "sarcoma." It is claimed that cancer of the neck was a result of or dependent upon a debilitated condition of the system from fever incurred in service, but this theory is not accepted by the medical authorities of the Pension Bureau, and hence the claim of the widow, Jane A. Ward, has been rejected by the Bureau under the general law, but she has been granted a pension at the rate of $8 per month under the act of June 27, 1890.

It is clearly shown that the widow is dependent on her own labor for support, and that she has an aged mother, but no children, dependent upon her. Certificates have been filed, signed by seven different persons who have employed the claimant as a nurse, and the character of these persons, together with the relationship of the claimant to the soldier and the efficient service rendered by him are certified under oath by Gen. Edward S. Bragg, of Wisconsin.

Dr. T. F. Mayham testifies that Mrs. Ward's mother is so aged and infirm as to compel the claimant to remain at home and to prevent her

from accepting positions where she could earn her own support, and that "she is therefore approximating a subject of charity."

In view of the probability that the soldier's death from cancer may have been a result of disease incurred in the service, although it is admitted that this fact can not be definitely and positively proved, and in view of the soldier's long and meritorious service and the claimant's present necessitous condition, your committee return the bill with the recommendation that it do pass, with the following amendment:

In line 11, strike out the word "fifteen" and insert in lieu thereof the word "twelve."

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 299.

WILLIAM C. SPENCER.

FEBRUARY 12, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HALL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2058.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2058) for the restoration of William C. Spencer to the Army, respectfully reports:

That a similar bill was favorably reported by the Committee on Military Affairs of the Fiftieth Congress, from whose report the following is quoted:

[Report No. 2959, Fiftieth Congress, first session.]

William C. Spencer was appointed as second lieutenant in the Second United States Infantry June 18, 1855, and served with said regiment in Minnesota and Nebraska until the spring of 1861.

During the Sioux troubles of 1857 in Minnesota, Lieut. Spencer rendered such gallant and meritorious service to the United States Government as called from the commanding general of the Army the following complimentary order:

[General Orders No. 14.]

HEADQUARTERS OF THE ARMY,
New York, November 13, 1857.

[Extract.]

This rule, however, must have marked exception—that of Bvt. Maj. T. W. Sherman, Third Artillery, who, in August, 1857, marched, at short notice, with his battery from Fort Snelling to the Indian agency at Yellow Medicine, Minnesota Territory, and by his promptitude, judgment, and firmness preserved the country from a war with the Mississippi tribes of the Sioux Nation. In this connection Second Lieut. William C. Spencer, Second Infantry, is commended for his gallant bearing on the occasion of his demanding, alone, the Indian murderer from the armed warriors of the tribe.

By command of Brevet Lieutenant-General Scott.

IRVIN MCDOWELL,
Assistant Adjutant-General.

The battery of artillery commanded by Maj. Gen. T. W. Sherman (now dead) was surrounded and to all intents taken by the Sioux Indians. His sentinels were stoned off post, and the warriors straddled his cannon, and in various other ways insulted the command. Lieut. Spencer, with Company K of the Second Regiment United States Infantry, made a march of 40 miles in about six hours, and relieved the command.

On the next day he rendered the services referred to in the above order. To this Gen. Sherman certifies in the following manner:

It gives me pleasure to certify, to whom it may concern, that W. C. Spencer, of Maryland, was well known to me in the years 1858 and 1859, when he was a lieutenant of the Second United States Infantry, U. S. Army, and that he was under my command for a short time in the summer of 1857 at the Upper Sioux Agency of the Yellow Medicine

River, Minnesota, where he distinguished himself by his coolness and intrepidity when sent with an interpreter to the Sioux camp to demand a culpable warrior, and when he was surrounded by the braves of the nation and threatened with instant death, seeing that any attempt of defense on his part would be worse than useless, handed his pistols to his interpreter, dismounted his horse, bared his breast to the muzzles of their pieces, and begged them to fire, which act of energy and abnegation was so appreciated by the braves that they became completely disarmed of their intentions through their appreciation of his bravery; and he no doubt prevented a bloody war with the Sioux Indians, which certainly would have taken place had they carried out their threats.

This signal act was highly commended by Maj.Gen. Scott in general orders. And it gives me pleasure to say, also, that the personal and military character of this officer, so far as I had the means of observation when stationed in Minnesota, was above reproach at all times and under all circumstances.

T. W. SHERMAN,
Major-General, U. S. Army.

NEWPORT, R. I., *December 31, 1873.*

Gen. William F. Barry, of the Army, also wrote of the same event in a most complimentary manner, in a letter written after the war, when he commanded the artillery school at Fortress Monroe in 1874, and indorsed Lieut. Spencer as a brave soldier and high-toned gentleman.

Gen. N. H. Davis, late Inspector-General U. S. Army, in a communication written at New York City, January 10, 1874, states that in his opinion Lieut. Spencer, Second Infantry, to which regiment he (Gen. Davis) then was attached, rendered the country excellent services, at the great risk of his life, in quelling a bloody fight between the frontier settlers of Crow Wing, Minn., and the Chippewa Indians, in 1858, after a number had been killed and wounded on both sides.

The records of the War Department show that no officer of the line of the U. S. Army, at the breaking out of the late war, stood higher in ability, both as an officer and gentleman, than Lieut. W. C. Spencer, and as a proof of this he was promoted by the recommendation of the Adjutant-General of the Army to the position of senior captain of the Seventeenth Regiment of the United States Infantry, and was intrusted with the organization of the first four companies of the regiment at Fort Preble, Portland Harbor, Me., in the summer of 1861.

Capt. W. C. Spencer, in the spring of 1862, marched out of the capital against the Confederates, under Gen. McClellan, and entered actively in the campaign against Richmond, and participated in the battles on the peninsula until the 24th of June, 1862. On that day he was informed of the arrest of his uncle, Judge R. B. Carmichael, of Maryland, who was dragged off the bench while holding court at Easton, Md., and was beaten nearly to death by roughs and home guard Maryland volunteers.

When the true state of the case was reported to the President, Mr. Lincoln, he ordered the judge's unconditional release from prison, which Secretary of War Stanton did under protest.

Capt. Spencer, on hearing of his uncle's arrest and the circumstances attending it, uttered such sentiments as caused his arrest for disloyalty, and he was incarcerated in Fortress Monroe for a short time, after which he joined his command and went into action at the second Bull Run, the charge of disloyalty still hanging over him.

Although he was mentioned for great gallantry on that field by Gen. D. B. McKibben, Second Battalion, Fourteenth United States Infantry, after a large number of his comrades had fallen, the aforesaid charge still rested over him, and, in December, 1862, he was for the third time ordered to the Army headquarters for trial, and was again refused, because the testimony was not all present against him. Feeling the bad treatment of the Government which he had so bravely upheld and fought in defense of, and seeing no redress in the future, he resigned in December, 1862.

In the spring of 1863 the certificate of Mrs. Lafayette Foster, widow of the late Senator from Connecticut, at that time president of the Senate, proves that, at the request of Capt. Spencer, her husband made application to have him reinstated in the U. S. Army, and was refused by Secretary Stanton. The records of the War Department at that date show the reinstatement of a number of officers of the U. S. Army who resigned from the Northern States at the time that Gen. McClellan was relieved from command of said Army. A joint resolution of the Maryland legislature in 1886, understanding the circumstances fully of the gross outrage committed on that distinguished jurist, the Hon. R. B. Carmichael, vindicated by decision of his excellency the President, Mr. Lincoln, and the consequent action of Capt. Spencer, passed a unanimous resolution asking Congress to reinstate him on account of his meritorious record and loyalty to the Government as an army officer. The records of the War Department, at the date of Capt. Spencer's resignation, show that

an officer of the Army, under charges, should be tried by court-martial within thirty days, yet in this case the record proves that this officer was under charges (for disloyalty) from the 23d of June, 1862, to the date of his resignation, December 11, 1862, five months and eighteen days.

Your committee would furthermore state that the proceedings of Congress show the reinstatement of a number of officers in the Army who were dismissed at the breaking out of the late war, and among them are the cases of Col. Wise, of the artillery of Maryland, and Capt. Nathaniel McLane.

The following letter of Col. Du Barry, of recent date, gives a detailed account of special services rendered by Capt. Spencer whereby a surprise and massacre of troops by the Indians was prevented:

WASHINGTON, D. C., *October 30, 1889.*

DEAR SIR: I have read with great interest the letter of Bvt. Maj. Gen T. W. Sherman, U. S. Army (embodied in a report in the last Congress in favor of your reinstatement in the Army), relative to your splendid conduct at Yellow Medicine in 1857, when you were a second lieutenant in the Second Infantry.

As I was present at the time as first lieutenant of Sherman's Light Battery E, Third Artillery, I have personal knowledge of the facts stated.

There is another fact in connection with the matters then transpiring which Maj. Sherman does not mention, but which I think should be stated.

A large number of Sioux Indians had at their own suggestion been allowed to gather near our camp for the avowed purpose of holding a council with the Superintendent of Indian Affairs.

These Indians were hostile; had given much trouble; had the previous winter attacked the white settlers near the Minnesota and Iowa line, murdered the men, and carried off the women to the horrible fate of female prisoners in the hands of the Indians. Moreover, one of them was then a prisoner in our camp for having come into it and killed one of our men. Under the circumstances their request for a council had been granted on the express condition that they should hold it without arms, at a point 200 yards from our camp. This was the more necessary, as it was known that among the thousands gathered in the vicinity were many Yanktonnais, etc., from the Missouri River, whom we had heard from reliable sources had come for the express purpose of making a disturbance at the distribution of annuity goods to the Sissetons.

The Indians assembled for the council in accordance with the agreement and with out arms, and were met by the Superintendent of Indian Affairs, Maj. Sherman, and several of the officers without arms.

All seemed going on well, when you detected squaws stealthily coming up ravines, mingling with the large crowd at the council, and conveying arms to the bucks.

This fact you at once communicated to the officers of the command in camp, and to the sergeant of the guard which held the prisoner.

You immediately put the infantry companies on the alert ready for any emergency, while I made the light battery ready for instant action at short range.

This had scarcely been done when the Indian prisoner made a dash from the guard tent directly towards the council, doubtless supposing the guard would not fire upon him for fear of hitting their own officers, towards whom he was running. Though the guard fired and wounded him, he succeeded in reaching the crowd.

In an instant the Indians, dropping their blankets, revealed their war paint and arms.

They made a feeble rush towards our camp, but seeing the troops formed ready for action, they fired a few shots and, turning, fled across the prairie, hastily moved their lodges out of sight and abandoned their schemes for that season.

Undoubtedly in seeking a council near our camp these Indians intended treachery, and their scheme was frustrated by your vigilance in detecting the stealthy action of the squaws.

Had it not been for this there would have been a massacre at the council like that of the lamented Canby by the Modocs, if not a surprise and massacre of the whole command.

I never recall those days of 1857 at the Yellow Medicine without thinking of your valuable services (which your two years' previous experience with Sioux Indians enabled you to render), your cool courage, and daring exhibited in most trying circumstances.

With great respect, I am, yours truly,

B. DU BARRY,
Colonel and A. C. G. S., U. S. Army.

Mr. W. C. SPENCER,
Baltimore, Md.

It is alleged that at the time of Capt. Spencer's resignation his physical condition was such as to unfit him for active military service and to entitle him to be placed upon the retired list of the Army under existing law; and medical testimony on file in the War Department and submitted to your committee strongly tends to establish this fact.

The opinion and suggestions of Maj. Gen. Schofield appear in the following letter:

HEADQUARTERS OF THE ARMY,
Washington, August 28, 1890.

SIR: Since the receipt of your letter of July 29, relative to the case of Capt. Spencer, I have carefully examined all the evidence relative to his case now on file in the War Department, all of which has, I believe, been embodied in the reports heretofore submitted by various committees of Congress in connection with bills which have been proposed for his restoration to the Army. Upon the consideration not only of the facts as shown by those records, but of the opinions expressed by the committees of Congress which have given the subject full consideration, it occurs to me to suggest that there is no reason at this time to consider the question of Capt. Spencer's alleged disloyalty to the United States, but that the merits of his claim may be fully determined by his letter of resignation, his previous military service, and his state of disability at the time his resignation was tendered and accepted. It would appear from his letter of resignation and the accompanying certificates, and from the action of the two boards before which he was ordered to appear for examination with a view to his reappointment in the Army in the years 1867 and 1868, that his disability at the time of his resignation was probably such as to justify or require his retirement under the then existing law.

I would therefore beg leave to suggest that such action might now be justly taken as would authorize his examination, with proof as to his then existing condition in the same manner as would be done at the present time, if he were now an officer of the Army; so that, if it be found that he was at the time of his resignation entitled to be placed on the retired list of the Army, such action may be now authorized by Congress. Unless this supposition is well founded, that Capt. Spencer was at the time incapacitated, either physically or mentally or both, I can not see any ground upon which his resignation, when under charges and in time of war, can be so far excused as to justify his restoration to the Army.

Yours, very respectfully,

J. M. SCHOFIELD,
Major-General Commanding.

Hon. H. J. SPOONER,
House of Representatives.

On the strength of the suggestions made by Gen. J. M. Schofield, commanding the Army, in his aforesaid letter to the Fifty-first Congress, a bill was passed, and approved by the President of the United States of America, authorizing the Secretary of War to convene a board of army officers for the physical examination of W. C. Spencer, late captain, Seventeenth Infantry, together with the records on file at the War Department at the time of his resignation in 1862.

The board convened at Fort McHenry, Baltimore Harbor, Md., in accordance with Special Orders No. 76, headquarters of the Army, Adjutant-General's Office, Washington, D. C., April 7, 1891, the president of the board being Col. L. L. Livingston, Third Artillery, two surgeons and three other line officers, which, after a careful examination of the evidence presented to it from the records on file at the War Department, together with the report of the army surgeons, who conducted a physical examination, reported that William C. Spencer, late captain, Seventeenth Infantry, at the time of his resignation from the Army in 1862 was physically incapacitated by reason of loss of right eye previous to entrance into service, and by reason of imperfect condition of left eye and chronic disease of digestive organs incident to the service, and by reason of which he was, at the time of his said resignation, entitled to retirement.

In connection with the above your committee submit the following

affidavit of Capt. James A. Snyder, U. S. Army, retired, which has a strong bearing on Capt. Spencer's case, showing the condition of his health while he was actively engaged in the field, both before and after he was charged with disloyalty, and when he had been suffering under this unjust charge for several months.

WASHINGTON, D. C., *April 13, 1891.*

Col. L. L. LIVINGSTON, U. S. A.,
President of a Military Board at Fort McHenry, Baltimore, Md.:

(To examine into the physical condition of W. C. Spencer, late captain, 17th U. S. Infantry.)

I, Capt. James A. Snyder, U. S. Army, retired, do hereby make the following affidavit: That I was aide-de-camp to Gen. George Sykes, commanding a division of regular infantry in the Army of the Potomac, in the campaign against Richmond, Va., in the spring, summer, and fall of 1862.

That I was well acquainted with Capt. W. C. Spencer, of the Seventeenth Infantry, and bear witness to his activity as an officer during said campaign. He was always ready for duty until he got into trouble on account of the arrest of his uncle, Judge R. Carmichael, of Maryland, a flaming account of which arrest was shown him by the commanding officer of his division, Gen. Sykes, to read, which was published in a New York newspaper.

I not only bear witness to the general efficiency and gallantry of Capt. Spencer as an officer during this campaign, but recollect also that he was on the sick report, and by his appearance showed his illness, prior to his arrest; yet he was always on hand for duty at the sound of the bugle during the battles and skirmishes on the Peninsula, up to the date of his arrest.

He was sent to Fortress Monroe under arrest, charged with disloyalty, by order of Gen. George B. McClellan, but was afterwards allowed to join the command, and, though still under arrest and on the sick report, on the 30th of August, 1862, was allowed to command Company A, Second Battalion, Fourteenth Infantry, in the second battle of Bull Run, Virginia.

He was still on the sick report and under arrest for disloyalty, but went with the division of regulars into western Maryland against the rebel Gen. Lee, after he had crossed the Potomac at Point of Rocks, in September, 1862; and at that time he was a walking skeleton, exciting the sympathy of one of the officers of the command to such a degree that he tendered him the use of a horse to ride on. His friends of the division heard afterwards he had gone home to Maryland sick, and they thought it was a wise step, as he, from his appearance, was certainly not fit for the hardships of an active campaign.

Capt. Spencer was, at this time, the guest and under the immediate command of Maj. D. B. McKibbin, Fourteenth Infantry, and had been since the division left Hampton Roads to reinforce Gen. Pope before Washington.

J. A. SNYDER.

Subscribed and sworn to before me this 13th day of April, A. D. 1891.

WALTER T. WRIGHT,
Notary Public.

A true copy.

R. WILLIAMS,
Assistant Adjutant-General.

ADJUTANT-GENERAL'S OFFICE, *December 24, 1891.*

Your committee do therefore unhesitatingly recommend the passage of the bill as a most meritorious one and a simple act of justice to a brave and gallant soldier who has been unjustly treated, and do therefore recommend that he be placed on the retired list of the Army as captain of infantry.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 300.

HENRY S. SAUNDERS.

FEBRUARY 12, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PICKLER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1138.]

The Committee on War Claims, to whom was referred the bill (H. R. 1138) for the relief of Henry S. Saunders, report the bill back with the recommendation that it do pass.

Similar bills were favorably reported to the Fiftieth and Fifty-first Congresses.

The committee adopt the report made to the Fiftieth Congress, which is as follows:

[House Report No. 3077, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 5767) for the relief of Henry S. Saunders, submit the following report:

The committee find from the evidence submitted that in the spring and summer of 1865 the claimant, Henry S. Saunders, was a citizen of the United States, residing upon and cultivating about 15 acres of land in Jefferson County, about 1 mile east of Louisville, Ky.; that his place was protected by a pine-board fence and posts; the fence was four planks high and the planks were 16 feet in length.

That his crop consisted of hay, corn, onions, potatoes, and other vegetables; that during that spring and summer the troops of the U. S. Army, composing a portion of the Fifteenth Army Corps, under command of Gen. William B. Hazen, camped upon and around his place, and that the said troops appropriated and used his fencing, lumber, and posts for firewood, etc., and that they also appropriated and used his hay, corn, and vegetables.

That immediately after these stores were taken and used by the troops of the U. S. Army in 1865, a board of survey, consisting of three army officers, organized by the order of Gen. Hazen, commanding the Fifteenth Army Corps, and when the facts were then fresh, visited the claimant's premises and investigated the matter, and found that the property taken by the troops amounted to $500, and that his claim was just and equitable to the best of their judgment and belief, and that the damages done in taking the stores, etc., were done by the troops of the U. S. Army, and fixed the amount of claimant's loss in fencing, lumber, and vegetables at $500. The finding of this board of survey was approved at the time by Gen. Hazen.

The claim was then submitted to the War Department and to a special claims commission which held its sessions in Washington in 1866, and was disallowed because, as that commission said, there was no law or regulation under which the claim could be considered and that there was no appropriation then available for paying the claim.

This finding was approved by the then Secretary of War, the Hon. Edwin M. Stanton. But the act of July 4, 1864, was lost sight of by this special claims commission and the Secretary of War, as was also the fact that an appropriation was available out of which the claim could have been paid.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 301.

MARGARET CHRISTIEN.

FEBRUARY 12, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCKINNEY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 4886.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4886) granting a mother's pension to Margaret Christien, submit the following report:

Margaret Christien or Christy is the mother of Leon Christien, who enlisted April 26, 1861, in Battery I, First Regiment United States Artillery, and died in hospital at Frederick, Md., on September 7, 1863. It is shown in evidence that the soldier was never married and that he contributed to some extent to the support of his parents. The mother is now about 90 years of age, has been a widow since 1877, and has no means of support except the contributions of a son who has a family of his own.

The claim was rejected by the Pension Bureau on the ground that the soldier was killed while attempting to escape from the provost guard and hence was not in line of duty.

The War Department record on which this conclusion was based is as follows:

> Final statement reports him died in hospital September 7, 1863. * * * Record of death and interment shows him to have died at military hospital Frederick, Md. * * * The medical records show Leander Christy, private Company I, First United States Artillery, admitted to general hospital Frederick, Md., July 18, 1863, died September 8, 1863. Remarks: Remittent fever, gunshot left lung, killed by one of the provost guards. Also shown as died September 7, 1863; cause of death, gunshot wound lung.

Another record shows the following:

> This patient was convalescing from remittent fever; was shot through the lungs while attempting to escape from provost guard.

It will be observed that there is nothing in the record to show the circumstances under which the soldier was in the custody of the provost guard, or whether the guard had any right to take him in custody, or whether, if properly in custody, there was any circumstance to justify the shooting. The record does show, however, that the soldier was sick in hospital; that he was convalescing from remittent fever, and that he was shot down by a guard. It is not easy to conceive just what circumstances could have justified the shooting of a patient who had been sick in hospital for more than six weeks, and in the absence of proof as to the exact circumstances it is at least as probable that the soldier was blameless as that the guard was justified in thus shooting him down.

In view of this doubt as to line of duty, and also the claimant's great age and destitution, your committee return the bill with the recommendation that it do pass, after being amended as follows:

In line 4 strike out the word "rules" and insert in lieu thereof the word "provisions"; in line 5 strike out the word "Department" and insert in lieu thereof the word "laws".

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 302.

SAMUEL M. NALLEY.

FEBRUARY 12, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2504.]

The Committee on War Claims, to whom was referred the bill (H. R. 2504) for the relief of Samuel M. Nalley, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report. Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 1323, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3239) for the relief of Samuel M. Nalley, report as follows:

This claim is for a quantity of corn, flour, molasses, sheep, cattle, and hogs, alleged to have been taken from the claimant by United States troops during the late war. Claim stated at $1,500.

The proof is clear in this case that Capt. James Files, of the Thirty-sixth Regiment of Illinois Volunteers, in the fall of 1864 took from the claimant stores and supplies of the value of $780.25 for the use of the Army; that at the time of purchase said Capt. Files assured claimant he would give him a voucher for the stores and supplies, but on account of having to leave there suddenly and in confusion, as our affiant states they were compelled to leave, as Gen. Hood's army was approaching, and that soon after this Capt. Files was lost on a vessel, claimant never received any pay for his property.

The proof of the taking and use of the stores and supplies is established, and your committee is of opinion that claimant should be paid the sum of $780.25, and report back the bill and recommend its passage, with the following amendment: In line 3 strike out "one thousand five hundred dollars" and insert "seven hundred and eighty dollars and twenty-five cents."

O

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2514.]

The Committee on War Claims, to whom was referred the bill (H. R. 2514) for the relief of Emeline E. Musgrave, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 2198, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 8043) for the relief of Emeline E. Musgrave, respectfully report as follows:

The claimant is a resident of Saline County, Ill., and the claim is for $415 for services of the claimant in caring for and nursing two soldiers, one of Company Twenty-ninth Regiment Illinois Volunteer Infantry, and the other of Company One hundred and tenth Regiment Illinois Volunteer Infantry. The soldiers were the stepsons of the claimant, were sent home on furlough, and the mother (the claimant) gave her time almost wholly to their care and nursing up to their death both having died after many months of lingering sickness. Your committee believe that some compensation should be made to the old mother for her assiduous care of the two soldiers, and they therefore recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 304.

HIRAM SOMERVILLE.

FEBRUARY 12, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2506.]

The Committee on War Claims, to whom was referred the bill (H. R. 2506) for the relief of Hiram Somerville, submit the following report:

This measure was considered by this committee in the Fiftyfirst Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 2059, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3234) for the relief of Hiram Somerville, submit the following report:

The claim in the case is for—

Damage to meadow	$250
One bay horse	150
Five hogs	100
One bay mare	100
One gray horse	125
Two haystacks	30
Total	755

Your committee have examined the evidence in this case and find that the claimant was throughout the war loyal to the Government of the United States; that his account, with the exception of one item, is just and correct, and that the property, except the "bay mare," was taken and used by the Army of the United States; that he has not received pay or compensation therefor from any source, either in whole or in part, but that the same is still due and owing to him from the United States.

Your committee therefore report the bill with the amendment that the word "seven" in line 3 be stricken out, and in lieu thereof insert the word "six," and as so amended recommend the passage of the bill.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { R[illegible]

EMELINE E. MUSGRA[illegible] N BLUE.

FEBRUARY 12, 1892.—Committed to the Comm[illegible] House and ordered to be prin[illegible]

Mr. SCOTT, from the Committ[illegible] laims, submitted the fol-

[illegible]PORT:

(To accompany H. R. 2503.)

The Committee on War Claims, to whom was referred the bill (H. R. 2514) for the relief of R. A. Spaulding, administrator of Solomon Blue, report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report. Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 2054, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3707) for the relief of the heirs of Solomon Blue, respectfully submit the following favorable report:

The evidence shows that Solomon Blue lived in Union County, Ky., during the war of the rebellion, and at all times was entirely loyal to the Government; that in August, 1864, Brig. Gen. E. A. Paine, of the Union Army, then commander of the Western District of Kentucky, seized and took from the possession of Solomon Blue, from his home in said Union County, 10 head of horses and 90 head of beef cattle, took them to Paducah, Ky., and turned them over to the proper departments of the Government, and that said property was taken and used for the benefit of the Government; that said claim has been examined by the Quartermaster-General and the horses have been paid for, but the claim for cattle was refused on the ground that it was not a proper charge against the Quartermaster's Department. The horses and cattle were taken at the same time, and the proof as to both is the same. The cattle have never been paid for.

Upon consideration of all the evidence in the case your committee believe that the sum of $6,050 is a fair compensation for them. One R. A. Spaulding is administrator of the estate of Solomon Blue. Your committee recommend the passage of the bill with the following amendments: First. Amend the title so as to read "A bill for the relief of R. A. Spalding, administrator of the estate of Solomon Blue, deceased." Second. Strike out from and including the word "heirs" in line 4 of the bill to and including the words "horses and" in line 7 of the bill, and insert in lieu thereof "R. A. Spalding, administrator of the estate of Solomon Blue, deceased, the sum of six thousand and fifty dollars for."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 306.

FANNIE PEMBERTON.

FEBRUARY 12, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SCOTT, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2505.]

The Committee on War Claims, to whom was referred the bill (H. R. 2505) for the relief of Fannie Pemberton, formerly Fannie Glass, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 1322, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3222) for the relief of Fannie Pemberton, formerly Fannie Glass, report as follows:

Your committee adopt the report, hereto annexed, from the Committee on War Claims of the Fiftieth Congress, and report back the bill and recommend its passage with an amendment as follows: In line 8, after "sixty-two," strike out "and that she be allowed interest on same from date."

[House Report No. 3697, Fiftieth Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 732) for the relief of Fannie Pemberton, formerly Fannie Glass, report as follows:

That the claim is for a wharf boat taken from the claimant by the Army of the United States during the late war. Claim stated at $4,000.

It appears from the proof submitted that in February, 1862, United States troops stationed at Golconda, Ill., took and appropriated to the use of the Government a wharf boat belonging to the claimant.

Your committee are satisfied that the Government took the property, and that the claimant has not received pay or compensation therefor, and report back the bill and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 307.

PRESIDENT'S MESSAGE RESPECTING RELATIONS WITH CHILE, CORRESPONDENCE, ETC.

FEBRUARY 12, 1892.—Ordered to be printed.

Mr. RICHARDSON, from the Committee on Printing, submitted the following

REPORT:

The Committee on Printing have considered the House concurrent resolution to print 6,000 copies of Executive Document No. 91, containing message of the President of the United States respecting the relations with Chile, diplomatic correspondence, and evidence, and report same with the recommendation that it do pass, with an amendment, adding the words "to include also part 2 of said executive document," after the words "ninety-one."

The estimated cost of publishing same is about $2,642.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 308.

PRESIDENT'S ANNUAL MESSAGE.

FEBRUARY 12, 1892.—Ordered to be printed.

Mr. RICHARDSON, from the Committee on Printing, submitted the following

REPORT.

The Committee on Printing have considered House resolution to print 20,000 extra copies of the annual message of the President of the United States and report same with recommendation that it do pass.

The estimated cost of printing same is $400.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 309.

UNITED STATES COURTS IN IDAHO.

FEBRUARY 13, 1892.—Referred to the House Calendar and ordered to be printed.

Mr. EZRA B. TAYLOR, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 626.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 626) to provide the times and places for holding terms of the United States courts in the State of Idaho, having had the same under consideration, beg leave to report the same, with an additional section as an amendment, with a favorable recommendation.

This bill provides the times and places for holding the United States courts in the State of Idaho. Court is now held only at Boisé City, capital of the State. The bill reported provides three places in the district for holding court, and gives each place two terms a year.

It is proposed to hold the terms for the northern part of the State at Moscow, in the county of Latah. The accommodations are ample, and the place is connected by rail with the extreme northern and southern portion of the State. It is 500 miles from Moscow to Boisé City. Litigants in the United States court from the northern part of Shoshone and Kootenai counties and from Idaho County are now obliged to travel from 600 to 700 miles. There are two Indian reservations in northern Idaho. Numerous petty cases are constantly arising under the statute against selling liquor to Indians; timber trespass cases, both civil and criminal, from this section of the State are presented at every term; while the calendar is crowded with mining cases from three of these counties, arising under the mining laws of the United States. The distance is so great that the poor man is unable to protect his property rights because of his inability to guarantee the expenses, while the persons accused of petty offenses, or settlers charged with timber trespass or other offenses connected with the public lands, are utterly unable to make the long journey and be subjected to the great expense arising from the trial and the incidents thereto. Indeed, it amounts to a practical denial of justice. The expense to the Government in paying mileage and per diem to jurors and witnesses which would be saved by this change would more than pay the rent and provide facilities for holding court at the places named.

The same statement will apply to Blackfoot, although the distances are not quite so great.

Both Moscow and Blackfoot are county seats, and each place has a commodious court-house, in which, no doubt, quarters can readily be obtained.

The committee recommend the addition of the following section, and that this bill so amended pass:

SEC. 7. That no action, suit, proceeding, information, indictment, recognizance, bail bond, or other process in either of said courts shall abate or be rendered invalid by reason of the change of time in the holding of the terms of said courts, but the same shall be deemed to be returnable to, pending, and triable at the terms herein provided for.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 310.

CUMBERLAND PRESBYTERIAN CHURCH OF ATHENS, ALA.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5940.]

The Committee on War Claims, to whom was referred the bill (H. R. 5490) to refer the claim against the United States of the trustees of the Cumberland Presbyterian Church of Athens, Limestone County, Ala., to the Court of Claims, have given the same their most careful consideration, and find that it is clearly established, by official documentary evidence, that the building of the said Cumberland Presbyterian Church was taken possession of and occupied by the military forces of the United States without the consent or permission of the pastor or trustees of the church or of the congregation, and that when it was vacated by the United States troops, the library, furniture, pulpit, pews, blinds, and flooring had been carried off or destroyed, and the building was actually and absolutely unfit for any use whatever, especially for use as a place of religious worship.

The committee find further that a board of investigation or survey was appointed by competent military authority, which board was directed to ascertain and report the extent of the damage or injury the said church building had suffered while in possession and occupancy of the United States forces; that said board of survey did meet in Athens and inquire into all the facts connected with the occupation of said church building by the United States troops, and made a report in which the damage or injury to said building was assessed at $2,000; but said report is not now attainable, for the reasons set forth in the letter of the chief clerk of the War Department, bearing date April 15, 1887, which the committee incorporate herein and make part of this report:

WAR DEPARTMENT,
Washington City, April 15, 1887.

SIR: Acknowledging receipt of your request of March 15, 1887, for a further search for certain original papers in the claim of the Cumberland Presbyterian Church of Athens, Ala., I am directed by the Secretary of War to forward copies of such papers in the case as have been found in the Quartermaster-General's office.

The reports of the board of investigation or survey, and of the architect, M. D. Le Moine, mentioned in the copies, were returned to General J. L. Donaldson by the Quartermaster-General April 21, 1866, and no trace of them after that date having been found it is presumed that General Donaldson returned them to the trustees, J. W. Donnell, W. P. Tanner, and James M. Lane, or Rev. G. W. Mitchell, pastor of the church.

It is possible that General Donaldson's retained papers would show the disposition of the two reports, but that officer died some years ago in Europe, and it is not known where his papers are.

It is impossible for the War Department to give any further information upon the

General Donaldson to Lieut. Ira B. Dutton, July 21, 1865.
Lieutenant Dutton to General Donaldson, August 15, 1865.
Colonel Mackay to Lieutenant Dutton, August 17, 1865.
Lieutenant Dutton to Colonel Mackay, August 22, 1865.
General Donaldson to Colonel Mackay, August 24, 1865.
Colonel Mackay to Col. C. H. Irvin, August 25, 1865.
Colonel Irvin to Colonel Mackay, August 30, 1865.
Trustees Donnell, Tanner, and Lane to Col. A. J. Mackay, September 28, 1865.
Colonel Mackay to General Donaldson, September 29, 1865.
General Donaldson and Quartermaster-General, October 2, 1865.

* * * * * * *

Quartermaster-General to General Donaldson, April 21, 1866.

The committee also desire to incorporate herein the several copies of official papers referred to in the foregoing letter, together with the deposition of the Rev. G. W. Mitchell, the pastor of the church, bearing date January 18, 1887, and make them a part of this report.

BRIEF.

ATHENS, ALA., *July 13, 1865.*

Mithell, G. W., pastor, and others applies for money to rebuild Cumberland Presbyterian Church at that place, it having been damaged by our soldiers so as to render it unfit for use.

[Endorsements.]

HEADQUARTERS MILITARY DIVISION OF THE TENNESSEE,
Nashville, Tenn., July 19, 1865.

Respectfully referred to Bvt. Maj. Gen. J. L. Donaldson, chief Q. M., M. D. T.
By command of Maj. Gen. Thomas.

HENRY M. CIST, *A. A. G.*

CHF. Q. M. OFFICE, M. D. T.,
Nashville, July 21, 1865.

Respectfully referred to Lieut. Ira B. Dutton, 13th W. V. I., A. A. Q. M., Decatur Ala., to know if rent has been paid for the church named within, and what damage it has sustained by Federal occupation.
By order of Bvt. Maj. Gen. J. L. Donaldson.

M. D. WICKERSHAM,
Captain and A. Q. M., Chf. Asst. Qr. M.

OFFICE CHIEF Q. M. D. OF T.,
Nashville, Aug. 17, 1865.

Respectfully returned in order that a copy of the proceedings of the board of survey may be attached to this paper, ere further action is taken in the case.

A. J. MACKAY,
Col. and Chf. Q. M. D. of T.

A. A. Q. M. OFFICE,
Decatur, Ala., Aug. 22, 1865.

Respectfully reforwarded, with the report of board of investigation attached.

IRA B. DUTTON,
Lieut. 13th Wis. and A. A. Q. M., Post Decatur, Ala.

OFFICE CHIEF Q. M., D. of T.,
Nashville, Aug. 24. 1865.

Respectfully forwarded to Bvt. Maj. Gen. J. L. Donaldson, Chief Q. M. Mil. Div. Tenn.

A. J. MACKAY,
Col. and Chief Q. M. Dept. of Tenn.

H'D QRS. MILT. DIV. TENN., OFFICE CHIEF Q. M.,
Nashville, Aug. 24, 1865.

Respectfully returned to Col. A. J. Mackay, C. Q. M. Dept. Tenn., for such action as he may deem necessary.

By order of Bvt. Maj. Gen. J. L. Donaldson.

M. D. WICKERSHAM,
Capt. and A. Q. M., Chf. Asst. Q. M.

OFFICE CHF. Q. M. D. OF T.,
Nashville, Aug. 25, 1865.

Respectfully referred to Bvt. Col. C. H. Irvin, A. Q. M., who is directed to send at once a competent mechanic to Athens, Ala., to estimate and report amount and cost of repairs necessary to be done to the Cumberland Presbyterian Church at that place, to put it in as nearly as possible its condition at time of occupancy by the Gov'm't. This paper to be returned.

A. J. MACKAY,
Col. and Chf. Q. M., D. of T.

ASST. Q. M. OFFICE,
Nashville, Aug. 30, 1865.

Respectfully returned to Col A. J. Mackay, Chf. Q. M., Dept. Tenn., with the information that it will cost twenty-six hundred and sixty dollars to repair the church within described, as per detailed report of M. D. Le Moine, architect, enclosed herewith.

CHARLES H. IRVIN,
Bvt. Col. and A. Q. M.

ATHENS, ALA., *Sept. 28, 1865.*

A. J. MACKAY,
Col. and Chf. Q. M., Dept. of Tenn.:

COLONEL: The undersigned have been appointed trustees of the Cumberland Presbyterian Church in this place to correspond with you on the subject of the repairs or commutation in money ($2,000) appropriated or necessary for the

We assure you that we believe the amount insufficient.

Enclosed please find estimates proposed with a view to forwarding to the Maj. Gen. Com'd'g Mil. Div. of Tenn.

We submit that the church was a new, strong, and substantial structure; that even the repairs reported as necessary in the accompanying estimates, though made by a competent architect, can never make the building equal to its original strength and durability when first occupied by the Federal authorities, and that a new building can alone be a compensation.

This we think but just, because the desecration and pollution from secular, not to say the vilest, uses, render it ever unfit for the temple of God.

1st. The church furniture, Sunday-school library, and hymn-books are all destroyed. We declare that it was never misappropriated or desecrated for political, revolutionary, or illegitimate uses, and that the congregation is and always has been of the most peaceable and conservative character.

2nd. Because no charges have ever been preferred, and the seizure can only be put on the ground of a military necessity; and that it is an implied obligation, acknowledged, to make fair compensation for the use and destruction of the building.

3rd. Because of the long deprivation from worship and Sabbath school, and neglect of moral, religious, and Biblical instruction.

4th. Because of its utter desecration and pollution and absolute impossibility to restore it so as to make it a proper and fit place of worship.

5th. Because the principles of restoration and compensation for this class of public property has been acknowledged, and we believe that none is more entitled to protection than this.

Respectfully submitted.

J. W. S. DONNELL,
W. P. TANNER,
JAMES M. LANE,
Trustees.

[Endorsements.]

OFFICE C. Q. M. D. of T.,
Nashville, Tenn., Sept. 29th, 1865.

Respectfully referred to Bvt. Maj. Gen. J. L. Donaldson, Chief Q. M., M. D. T., for action.

On the 2nd instant a communication was addressed to the trustees from this office offering them $2,000 in lieu of all claims for damages against the U. States on account of occupation of the building by the military authorities. All the original papers in the case are transmitted herewith.

A. J. MACKAY,
Col. and Chief Q. Master, Dept. of Tenn.

HEADQRS. MIL. DIV. OF THE TENNESSEE,
CHIEF QUARTERMASTER'S OFFICE,
Nashville, T., Oct. 2nd, '65.

Respectfully submitted to the Quartermaster-General U. S. A., with a separate communication on the same subject herewith transmitted.

J. L. DONALDSON.
Bvt. Maj. Gen., C. Q. M., M. D. T.

HEADQUARTERS MILITARY DIVISION OF THE TENNESSEE,
CHIEF QUARTERMASTER'S OFFICE,
Nashville, Tenn., Oct. 2nd, 1865.

Bvt. Maj. Genl. M. C. MEIGS,
Quartermaster Genl. U. S. A., Washington City, D. C.:

GENERAL: I have the honor to inclose the claims of the "Cumberland Presbyterian Church," of Athens, Ala., for damages in consequence of its occupation and desecration by United States troops.

When churches have been occupied as hospitals, they have been in a measure preserved, and my course has been to recommend their repair, but in this case it appears that the church has been terribly desecrated, and never was used as a hospital. I presume it comes under the ordinary class of claims for damages done by the Army. It will not cost less than the amount estimated by M. La Moisee, and in the present condition of things probably more.

Very respectfully,

J. L. DONALDSON,
Bvt. Maj. Gen., Chf. Q. M., M. D. T.

WAR DEPARTMENT, QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., April 21st, 1866.

Bvt. Maj. Gen. J. L. DONALDSON,
Chf. Q. M., Mil. Div. of the Tennessee, Nashville, Tenn.:

GENERAL: The inclosed claims of the Cumberland Presbyterian Church of Athens, Ala., for damages presented by you, is herewith respectfully returned.

It appears that this church was never used for hospital purposes, but was damaged consequent by its occupation by U. S. troops.

Claims for damages can not be paid from any appropriation under the control of the Q. M. Gen'l.

Very respectfully, your ob't serv't,
By order Q'r M'r General.

J. J. DANA,
Col. Q. M. Dept., Bvt. Brig. Gen'l.

WAR DEPARTMENT, *April 15. 1887.*

True copies.

JOHN TWEEDALE,
Chief Clerk.

STATE OF ALA., LIMESTONE CO., TOWN OF ATHENS,
January the 18th, 1887.

The following statements I make, guided by my recollections, viz:

After the surrender of the Confederate armies, while Gen. Geo. H. Thomas had his headquarters at Nashville, Tenn., in 1865, Gen. Gordon Granger, who then was stationed at Decatur, Alabama, sent a military commission to this place (Athens, Ala.), by which I was called on to furnish a list of reliable citizens of Athens who could, from personal knowledge, testify as to the damages sustained by the Cumberland Presbyterian Church of said town by the hands of Federal soldiers. Upon my compliance, said citizens and myself having been summoned, personally appeared before said commission, and gave testimony, which was recorded, and, as I learned, was reported to Gen. Granger.

While waiting the result of said report, I called on Gen. Thomas in Nashville. He stated that he had not heard the result of the matter, but advised the church to take no further action in the case until it could hear from the War Department in Washington.

After this, following the lights I then had, I got information from the War Department that no appropriation had been made for that class of claims, and that no relief could be given until such appropriations should be made. My impression is that the report of the above commission is on file in the War Department in Washington City.

If said report, which contains all the facts as they were then fresh in the minds of witnesses, is not accessible, I will add that the facts upon which said church has ground to set up a claim for damages are substantially the following (I speak from personal knowledge and recollection, having been pastor of the church before, during, and for some years after the war), viz:

1st. In 1863 the church house was occupied for a short time as a barracks, and was, on its evacuation, deprived of its library, chairs, carpets, and lamps.

2nd. Its Venetian window-blinds were burned by soldiers in cooking rations.

3rd. After this, in 1863, when Gen. Dodge took possession of the town, the church was used for a commissary warehouse; its pews were taken off and the floor broken down, and the pulpit destroyed; so that the congregation was deprived of its house of worship from that time until 1869, not sooner being able to refit it.

4th. In 1865, after the surrender, the floor, including plank and sleepers, was entirely carried off, with door-shutters, and window-sash, leaving only the brick walls, in a damaged condition, and the roof.

5th. Col. H. H. Higgins, a professional architect and practical builder, submitted, as part of his testimony before said commission, an itemized statement of the damages to the church, with the value thereof and the cost of material and labor to refit at the prices then ruling for such items, which aggregated within a few dollars of $6,000.

Respectfully, etc.,

G. W. MITCHELL.

THE STATE OF ALABAMA, *Limestone County:*

Before me, James Benagh, a notary public in and for the State and county aforesaid, personally appeared the Rev. George W. Mitchell, personally known to me to be a good citizen and of good repute in the community, who, being duly sworn, on oath deposes and says that all the statements of facts made by him in the annexed statement signed by him and covering two pages of this sheet, are true according to the best of his knowledge, information, remembrance, and belief.

Given under my hand and official seal at Athens, in Limestone County, Ala., this 26th day of October, 1887.

[OFFICIAL SEAL.]

JAMES BENAGH,
Notary Public.

From these papers it is unmistakably evident that the church building was occupied by the United States military forces during the years 1863, 1864, and 1865, and that it was not only shamefully desecrated, but that when it was evacuated by the troops there was nothing of the building left but the bare walls and the roof, and even those had suffered serious and material injury. It appears further that no rent whatever was paid for the use or occupation of the building; and that the award of $2,000 made by the board of survey was an inadequate compensation for the use of the building and the expense of its repair.

The liability of the Government for the occupation of and damage to private property is an acknowledged principle, and the committee are of the opinion that the extent of such liability in this case can be most readily and satisfactorily ascertained and established by the Court of Claims.

Your committee therefore report the bill back, and recommend that it do pass.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 311.

TRUSTEES OF THE PRESBYTERIAN CHURCH OF BETHEL SPRINGS, TENN.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3889.]

The Committee on War Claims, to whom was referred the bill (H. R. 3889) for the relief of the trustees of the Presbyterian Church of Bethel Springs, Tenn., submit the following report:

The evidence filed in support of this claim shows that the church building was taken possession of and used and occupied by various commands of the United States troops during the years 1862 and 1863. In accordance with precedent, it seems to be the policy of Congress to pay rent for the use and occupation of institutions of this character. Claim stated at $400. The use and occupation are proved to be $400 by the affidavits of parties who were present at the time, and estimate it from personal knowledge and experience.

Your committee therefore report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 312.

JAMES B. BAZELL.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5949.]

The Committee on War Claims, to whom was referred the bill (H. R. 4072) for the relief of James B. Bazell submit the following report:

The records of the War Department show that James B. Bazell was mustered into service as second lieutenant with Company K, Fifth Regiment West Virginia Infantry Volunteers, to date October 18, 1861; as captain to date August 28, 1863, and was mustered out of service with the company September 20, 1864.

In 1863 he was detailed for recruiting service for his regiment, and while recruiting for his regiment expended the sum of $556, for which he has not been paid.

The claim is proven to the satisfaction of your committee, and they report herewith a substitute for the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 313.

S. K. N. PATTON

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3410.]

The Committee on War Claims, to whom was referred the bill (H. R. 3410) for the relief of Col. S. K. N. Patton, submit the following report:

This measure was considered by this committee in the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report, and recommend the passage of the bill.

[House Report No. 2964, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 11734) for the relief of Col. S. K. N. Patton, report as follows:

This bill authorizes the Secretary of the Treasury to pay to the estate of S. K. N. Patton, deceased, the pay and allowances of a colonel of cavalry from September 14, 1863, until April 1, 1864, and is a claim for pay for services rendered prior to muster.

It appears from the petition and evidence filed in support thereof that S. K. N. Patton was commissioned colonel of the Eighth Regiment of Tennessee Cavalry on September 14, 1863, and served in that capacity until April 1, 1864. He was not mustered into the service of the United States until April 1, 1864.

By the act of Congress approved June 3, 1884, it was intended to give relief in this class of claims, and it appears that Col. Patton filed his claim in the War Department under the act, and that his case has been decided adversely, because under the provisions of War Department General Orders No. 61, of 1861, a colonel was only entitled to muster into the service of the United States on the completion by muster in of the entire regiment for which commissioned.

While the decision of the War Department may be in accordance with the orders of that Department, the fact remains that Col. Patton was commissioned colonel on September 14, 1863, and was on duty and recognized as colonel. Having obtained the benefit of Col. Patton's services, the Government ought not to set up a technical plea in bar of its obligation to make compensation therefor, and your committee is of opinion that the claimant should be paid for the services rendered prior to muster, and report herewith a substitute for the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 314.

WILLIAM D. O'BRIEN.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4246.]

The Committee on War Claims, to whom was referred the bill (H. R. 4246) for the relief of William D. O'Brien, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 3085, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 5146) for the relief of William D. O'Brien, report as follows:

This claim is for supplies furnished by the claimant to recruits for the Union Army in East Tennessee during the late war. Claim stated at $1,440.

Claimant filed his claim with an attorney for presentation to the Commissary-General, and the papers were lost or mislaid by the attorney.

The loyalty of the claimant and the value of the supplies furnished to the recruits for the Army are proven to the satisfaction of the committee, and they report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 315.

JESSE P. HARTMAN.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3414.]

The Committee on War Claims, to whom was referred the bill (H. R. 3414) for the relief of Jesse P. Hartman, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 2819, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 11195) for the relief of Jesse P. Hartman, respectfully report as follows:

It appears from the petition and evidence filed in support thereof that Jesse P. Hartman was commissioned as a second lieutenant of Company I, Eighth Regiment of Tennessee Cavalry Volunteers, on April 1, 1864, by the military governor of Tennessee, and served in that capacity until November 1, 1864, but was never mustered into the United States service.

By the act of Congress approved June 3, 1884, it was intended, by a general bill, to give relief in this class of claims, and it appears that Mr. Hartman did not present his case to the War Department under the act.

Your committee is of the opinion that the claimant should be paid for the services he rendered, and report back the bill and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 316.

GEORGE TURNER.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3045.]

The Committee on War Claims, to whom was referred the bill (H. R. 3045) for the relief of George Turner, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 878, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 6599) for the relief of George Turner, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own and report back the bill and recommend its passage.

[House Report No. 2236, Fiftieth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 4069) for the relief of George Turner, report as follows:

George Turner, of Union County, Tenn., asks that the sum of $2,000 be paid him for services rendered as a scout, pilot, and recruiting agent during the late war.

The country in which this scout operated was the mountainous region of east Tennessee and southern and eastern Kentucky. As the evidence makes clear, from claimaint's knowledge of the mountain trails and the formation of this country generally, he made himself of great service to the Union cause by piloting hundreds of loyal refugees and recruits to the Federal Army at various points in Kentucky, and in thus doing he experienced many hardships and privations.

The testimony of several commissioned officers and private citizens, with other papers filed, show that the claimant commenced the work of piloting recruits through the mountains to the Union Army in January, 1862. It also clearly shows that actual service was rendered and personal sacrifices made in behalf of the Union by this pilot until September, 1863; and the value of his service is certified to by commissioned officers of the Union Army.

In consideration of the above facts and the services rendered by claimant to the Government, your committee report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 317.

NELSON McLAUGHLIN.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3411.]

The Committee on War Claims, to whom was referred the bill (H. R. 3411) for the relief of Nelson McLaughlin, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusion stated in that report and recommend the passage of the bill.

[House Report No. 300, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 5147) for the relief of Nelson McLaughlin, report as follows:

The claim made by Nelson McLaughlin is for services rendered and money expended by him in recruiting for the Eighth and Thirteenth Regiments of Tennessee Cavalry in 1863 and 1864. Claim stated at $3,500.

Nelson McLaughlin was mustered into service as second lieutenant, Company M, Eighth Tennessee Cavalry Volunteers, to date October 1, 1863, to serve three years; as captain, same company, to date April 1, 1864, and was honorably discharged as such on tender of resignation June 20, 1865.

Samuel K. N. Patton, late colonel Eighth Regiment Tennessee Cavalry, states under oath that Nelson McLaughlin recruited 128 men for his regiment.

The official records of the War Department show that the claimant recruited 47 men for the Eighth Tennessee Cavalry, and that he has not been paid for expenses incurred in recruiting.

The committee have carefully examined the affidavits and other papers which have been referred to them, and are entirely satisfied that the claimant expended the money for which he now seeks to be reimbursed, and that no part of the money thus expended has been paid to him either by the State of Tennessee or by the Government.

In recruiting for the aforesaid regiments, the executive of Tennessee furnished neither place of rendezvous, subsistence, nor transportation. Capt. McLaughlin furnished the clothing and subsistence to all the men recruited by him. Although a long time has elapsed since these disbursements were made, it appears that the claimant has been diligent in seeking the relief which he now asks.

W. G. Brownlow, late governor of Tennessee, under date of August 17, 1866, says:

"I would say that Capt. Nelson McLaughlin, late of the Eighteenth Regiment of Tennessee Cavalry, was a most active and energetic officer during the late rebellion; that he served with honor to himself and in a manner which reflected the highest credit upon his command; he rendered valuable service to the cause, recruiting Union men within the rebel lines, and piloting and subsisting them to the Federal armies beyond the mountains of East Tennessee, and I sincerely hope that his lack of proper vouchers may not prevent his receiving justice at the hands of the Government."

Your committee, in view of the foregoing statement of facts, report back the bill and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 318.

A. S. JOHNSON, ADMINISTRATOR OF THOMAS JOHNSON, DECEASED.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3404.]

The Committee on War Claims, to whom was referred the bill (H. R. 3404) for the relief of A. S. Johnson, administrator of Thomas Johnson, deceased, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 3170, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 12029) for the relief of A. S. Johnson, administrator of Thomas Johnson, deceased, report as follows:

That this is a claim for stores and supplies taken by United States troops during the late war from the decedent. Claim stated at $356.25.

The claim was not filed in the office of the Quartermaster-General for the reason that the widow of the decedent was ignorant of the law.

The loyalty of the decedent, and the taking and use of the stores and supplies by the Army of the United States, and their value, are proven to the satisfaction of the committee, and they report back the bill and recommend its passage.

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 319.

WILLIAM M. HENRY.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3415.]

The Committee on War Claims, to whom was referred the bill (H. R. 3415) for the relief of William M. Henry, submit the following report:

This measure was considered by this committee in the Fifty-first Congress and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 2607, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 11196) for the relief of William M. Henry, submit the following report:

This is a claim for pay for services rendered by William M. Henry, formerly second lieutenant of Company E, First Regiment Tennessee Volunteer Cavalry.

It appears from the petition and evidence filed in support thereof that William M. Henry was commissioned by the military governor of Tennessee a second lieutenant in the First Regiment Tennessee Cavalry on the 13th of August, 1864, and served in that capacity until April 11, 1865, and made application to be mustered under his commission.

Claimant filed his claim in the War Department and it was rejected, for the reason that Company E, during the period from August, 1863, to April 11, 1865, was reduced below the minimum strength and was not entitled, under the law, to an officer of the grade of second lieutenant.

While the decision of the War Department may be in accordance with the law, the fact remains that Mr. Henry was on duty as second lieutenant; that his services were recognized and accepted by the Government. Having obtained the benefit of Henry's services, the Government ought not to set up a technical plea in bar of its obligation to make compensation therefor, and your committee is of opinion that payment be made to Mr. Henry.

Your committee therefore report back the bill and recommend its passage.

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 320.

HORACE L. BRADLEY.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4122.]

The Committee on War Claims, to whom was referred the bill (H. R. 4122) for the relief of Horace L. Bradley, submit the following report:

This measure was considered by this committee in the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and recommend the passage of the bill.

[House Report No. 2441, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 8569) for the relief of Horace Bradley, report as follows:

The memorial states in substance that the memorialist, in November, 1863, lived in and was the owner of a dwelling house in Knoxville, Tenn., of the cash value of $3,500; that there was also upon his premises one stable, with other outbuildings, and a good cistern, and that his inclosure was fenced with plank and picket fence; that while he was in the occupancy of said premises, on the 19th day of November, 1863, the dwelling house, with all the improvements, was torn down and destroyed by Maj. Gen. Burnside, during the siege of Knoxville, the better to aid in the defense of said town, and to allow the completion of a fort, then in course of construction, the destruction of the said property being deemed an absolute military necessity at the time; so much so, and so immediate and urgent was the necessity, that only five minutes was given the memorialist to vacate the said premises. That a battle was then going on in the outskirts of the city, and balls were flying over and about said premises at the time.

The items of the claim for which relief is asked are as follows:

One dwelling house	$3,500
One stable	100
For leveling off fortification	150
Total	3,750

The statements of the memorial are supported by additional proofs as to the destruction and the extent of the damage sustained, including among the proofs a certificate from Gen. Burnside, signed by his assistant adjutant-general, that the house was destroyed by his order to assist in the proper defense of the town.

It also appears that Gen. Burnside afterward organized a military board, known as "The Burnside Commission," for the purpose of examining into losses sustained by loyal men, and paying for the same, and this claim was presented to such board, but was not allowed.

The reason for the action of the board in not passing this claim is not stated in the

papers. It appears further, that an application has been made to the office of the Quartermaster-General, but without success, and hence application is made to Congress.

Your committee, in view of the foregoing statement of facts, report back the bill and recommend its passage with the following amendments: Strike out "Horace Bradley," wherever it appears in the bill, and insert "Horace L. Bradley;" and in line 5 strike out "five thousand" and insert in lieu thereof "three thousand seven hundred and fifty dollars."

O

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 321.

B. R. HACKNEY.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3030.]

The Committee on War Claims, to whom was referred the bill (H. R. 3030), for the relief of B. R. Hackney, submitted the following report:

This measure was considered by this committee in the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusion stated in that report and recommend the passage of the bill.

[House Report No. 274, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1944) for the relief of B. R. Hackney, report as follows:

This is a claim for quartermaster's stores taken from the claimant in Knox County, Tenn., by the Army of the United States during the late war. Claim stated at $459.57.

The claim was filed in the office of the Quartermaster-General December 17, 1879. It was referred to a special agent of that Department for examination and report. The special agent, under date of December 31, 1884, recommended that claimant should be paid for the following stores:

For 23 acres of corn, 12 bushels to the acre, at 90 cents	$248.40
For fodder on 23 acres of corn	25.00
For 17 acres of clover and grass pasture	50.00
Total	323.40

The loyalty of the claimant is established by the best citizens of Knox County, Tenn.

The case was finally considered by the Quartermaster-General on November 30, 1885, and not allowed, the Quartermaster-General being unable to certify that he was convinced that the property was actually received or taken for the use of and used by the U. S. Army.

Your committee are satisfied as to the loyalty of the claimant, and that stores to the value of $323.40 were taken and used by the Army of the United States, and report back the bill and recommend its passage with the following amendments:

In line 4, after the word "Hackney," insert "of Knox County, Tennessee," and in lines 4 and 5 strike out "four hundred and fifty-nine dollars and ninety-one cents," and insert in lieu thereof "three hundred and twenty-three dollars and forty cents."

52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 322.

R. H. HOFFMAN.

FEBRUARY 13, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 4241.]

The Committee on War Claims, to whom was referred the bill (H. R. 4241) for the relief of R. H. Hoffman, report as follows:

Your committee adopts the report herewith annexed from the Committee on War Claims of the Fifty-first Congress, and recommend the passage of the bill.

House Report No. 1633, Fifty-first Congress, first session.

Mr. MAISH, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5931.]

The Committee on War Claims, having had under consideration the bill (H. R. 5931) for the relief of R. H. Hoffman, beg leave to submit the following report:

The bill is for the relief of Robert H. Hoffman for the value of property burnt at Lexington, Mo., on August 18, 1862, by order of an officer of the Army, under a misconception of orders, while the same was under safeguard and the guarantied protection of the Government.

The facts are substantially as follows:

On February 12, 1862, John D. Stevenson, colonel of the Seventh Regiment of Missouri Infantry Volunteers, and the senior officer at that place, issued General Orders No. 2, establishing the military post at Lexington, embracing all of said town.

Said order declared that all citizens should renew their allegiance to the Government, resume their usual avocations, and, when having done these, he pledged the faith of the Government to protect them, their families, and property against all molestation or damage by the military authorities so long as they did not violate any of the rules he had prescribed.

On February 14, 1862, Colonel Stevenson issued a circular order prescribing the form of oath the citizens should take, and that when taken the party should be given a safeguard for the protection of his family and property.

Hoffman duly took the oath prescribed, and a safeguard was issued to him as follows:

LOYAL CITIZEN UNITED STATES SAFEGUARD,
HEADQUARTERS UNITED STATES FORCES,
Post of Lexington, Mo., April 17, 1862.

To all whom it may concern:

Whereas Robert H. Hoffman, Lexington, county of Lafayette, State of Missouri, has this day renewed his allegiance by taking the oath prescribed by circular order from department headquarters of February 16, 1862, these therefore are to be to the said Robert H. Hoffman, his family and property, a guaranty of protection from molestation or arrest by any officer or soldier of the United States or State of Missouri, unless the same be ordered from headquarters, under the penalties affixed by the Articles of War for the violation of a safeguard.

N. COLE,
Captain, Commanding Post, Lexington, Mo.

Attest:
W. P. HAWKINS,
Captain, Seventh Regiment, Provost Marshal.

Hoffman was at the time engaged in carrying on hemp manufacturing in Lexington, within the lines of said post, as requested by the General Order No. 2, under his guarantied protection and safeguard, and continued in said business until August 18, 1862, when his property was burnt, as hereinafter set forth.

At this late date Daniel Huston, jr., colonel of the Seventh Regiment of Missouri Cavalry, who was also an officer of the regular Army, was in command of all the troops at said post.

In the forepart of August, 1862, the Confederate forces suddenly advanced northward from Arkansas, and appeared at Lone Jack, about 40 miles southwest from Lexington; about the 12th, Major Foster, with about 800 men, was sent out to attack them. He made the attack at Lone Jack on the morning of August 16, but was defeated, and his command retreated to Lexington, where they arrived about sunset of that day.

Wild rumors and much excitement followed; Colonel Huston took immediate steps to defend the post in case of attack. He had 1,500 men in his command, and General Loan was advancing from the north with a large force to his assistance.

On the 17th reconnoitering parties reported the enemy to be at Chapel Hill, 23 miles distant, and advancing towards Lexington.

Among the preparation for defense made by Colonel Huston he ordered Lieut. Charles R. Combs, of Company C of his own regiment, to select from his company a trusty sergeant and twelve good men for special service, and instructed him to post his men at the warehouses and set fire to them only when it was found that our troops were forced to retire to the intrenchments, which would be indicated to them by the discharge of musketry and cannon in the streets and in front of the intrenchments.

After giving these orders, fearing that he might not have been sufficiently careful to guard against any possible misconception, he recalled Lieutenant Combs and gave him special charge not to fire the buildings until after it was certain that no alternative remained to hold the place, and not to communicate his orders to any of his men.

Colonel Huston also ordered the removal of all fences, trees, and corn fields in the immediate vicinity that might afford cover for sharpshooters. Some old buildings overlooking the intrenchments were ordered to be leveled. Among these were the ruins of a brick house, burnt at the time of Price's raid, in September, 1861, standing about 100 yards from the earthworks. On the morning of August 18, Colonel Huston ordered Lieutenant Hoffman, commanding the artillery, to place a keg of powder under the corner of that old building and blow it up. This was done, but it took two or three blasts to level its walls.

Upon the very first explosion in doing this work, notwithstanding the precautions taken by Colonel Houston, Lieutenant Combs, mistaking the explosion for a discharge of cannon, perhaps, set fire to the warehouse buildings containing the property of Hoffman, and the building and contents were all consumed.

Colonel Huston expressed great indignation at the time for this act, but the deed was done.

The claimant had at the time, and was the owner of a large quantity of hemp and materials and machinery for operating the business in the warehouse of Thomas M. Hackett on the river bank. The items of the property burnt and the value of each given were sworn to by the claimant, James Jones, foreman in the hackling establishment, Jacob C. Reinhard employed in the works, a few days after the destruction *of the property.* These parties all swear to the items of the property

and the value of each. The total value of claimant's property burnt is proven to have been $23,341.95, for which amount he has been appealing to Congress for payment.

On August 20, 1862, the claimant wrote to James E. Yeatman, president of the western sanitary commission, at St. Louis, informing him of the facts of his loss, and requesting his advice. On August 26, 1862, Mr. Yeatman replied, advising him to prepare his claim, with proof of manner and cause of destruction, stating the items and value, and present it to Congress, or some tribunal that might hereafter be established, and he believed it would be paid, because he thought the Government was undoubtedly liable. Upon this advice the claimant did prepare the claim and proofs early in September following.

Among the papers is a report of Colonel Huston, dated September 23, 1862, giving in detail the circumstances and causes under which the property was destroyed. This report shows that while the destruction was not in fact a military necessity, Lieutenant Combs, under the existing excitement, mistook and misconceived the order given him. But he was an authorized agent of the Government at the time, and his acts were those of his principals.

It appears that the Confederates did not come nearer Lexington than Chapel Hill, 23 miles distant. Wild rumors stated some were within 7 miles of Lexington, but such was a mistake. There was no fighting at or near Lexington at that time. The Union troops were in possession of the town, and were never after dispossessed. It is very probable that Lieutenant Cowles, under the excitement pending, believed he was justified in destroying the property. But whether actually justified or not, if he thought so the Government is equally liable, and should indemnify the owner.

The question is, is the Government legally under obligations to indemnify Hoffman for his losses? If not legally liable, is it not morally bound by the customs, rules, and acts of modern civilized nations, in like cases, to pay for these losses?

Authorities on public and national law, and the public acts of Great Britain, France, and the United States, have all held that the Government must indemnify the citizen for property destroyed by its agents. The highest courts of the United States have invariably held this to be the law. Its correctness has never been questioned. Its fulfillment has been suspended during the late war, and during that period only, as we will show hereafter.

"Is the state bound to indemnify individuals for the damage they have sustained in war? We may learn from Grotius that authors are divided on this question. The damages under investigation are to be distinguished into two kinds: those by the state itself or the sovereign, and those done by the enemy. Of the first kind, some are done deliberately and by way of precaution, as when a field, a house, or garden belonging to a private person is taken for the purpose of erecting on the spot a tower, a rampart, or any other piece of fortification; or where his standing corn or storehouses are destroyed to prevent their being of use to the enemy. Such damages are to be made good to the individual, who should bear only his quota of the loss." (Vattel, 403). We must observe this, that the king may in two ways deprive his subjects of their right, either by way of punishment, or by virtue of his eminent power. But if he do so in the last way it must be for some public advantage, and then the subject ought to receive, if possible, a just satisfaction for the loss he suffers out of the common stock. (Grotius, b. 2, ch. 14, sec. 7.)

The state has an eminent right of property over the goods of the subjects, so that the state or those that represent it may make use of them, and even destroy and alienate them, not only on extreme necessity, but for the public, to which we must add that the state is obliged to repair the damages suffered by any subject on that account out of the public stock. Neither shall the state be absolved from this obligation, though for the present not able to satisfy it; but whenever the state is in a capacity, this suspended obligation shall resume its force." (Grotius, b. 3, ch. 20, sec. 7.)

These authorities are supported by every respectable writer upon public and national law. It is the settled and fundamental law of all Christian and civilized nations, that governments are bound to make just indemnity to citizens whose property was taken, used, or destroyed for the public use, convenience, or safety.

This rule has been recognized and carried out by Great Britain and France.

After the close of our war of the Revolution and treaty of 1783 the British Government paid over $20,000,000 to those subjects of the Colonies who had sided with the parent government during that war for property they had lost in consequence of adhering to the British Government, upon the principle of public law that when the subject had maintained his allegiance to the government the government was bound to protect his person and property, and pay him the value of the property lost in consequence of such adherence.

The same rule was recognized and carried out by the French Government after the disastrous war of 1870 and 1871 with Germany. It created a commission to examine, settle, adjust and pay all French citizens and foreign residents for their property damaged or destroyed by the acts of the French military or civil authorities during said war. Claims amounting to about 100,000,000 of francs were paid under these provisions by that nation for damage to private property.

It did more than this. It also paid all French citizens and foreign residents for their property damaged or destroyed on French territory by the German military authorities, amounting to about 20,000,000 of francs.

These payments were made by a Government then in great financial distress, upon the rule of public law that the private citizen was entitled to the protection of his property, and in case it was destroyed or damaged for public use or advantage, or the inability of the government to protect it, the owner should be paid just compensation therefor, and should not be required to bear more than his proportion of the loss caused through the acts of the government or its agents.

The same rule of law has always been recognized and carried out by the United States Government from its earliest days t othe present, with the exception of the suspension during the late war of 1861.

The last clause of the fifth amendment to the Constitution declares: "Nor shall private property be taken for public use without just compensation."

What is public use? When there is a public necessity for the property, as for quarters, subsistence, or the preservation or protection of an army, the officer in command may, if in his judgment it is necessary, seize and use buildings and other property for his command; and in case of danger he may order them destroyed for the protection of his troops or to prevent them falling into the hands of the enemy. In either event the public has had the use and benefit of the property, and the owner is entitled to indemnity.

On April 9, 1816, Congress passed an act entitled "An act to authorize the payment for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes." (3 Stat., p. 261.)

Section 1 of said act provided for paying for horses lost in battle or otherwise while in the military service in the war of 1812.

Section 2 directed payment for horses lost by the owner being dismounted or separated from the same.

Section 3 directed payment for all horses, mules, oxen, wagons, carts,

boats, sleighs, or harness which was lost, captured, or destroyed by the enemy while such property was in the military service of the United States by impressment or contract.

Section 4 directed payment for arms and accouterments lost or destroyed.

Section 5 provided that where any property had been impressed or taken by public authority for the subsistence of the Army and was destroyed, lost, or consumed, the owner should be paid the value thereof

Section 9 provided—

> That any person who, in the time aforesaid, has sustained damage by the destruction of his or her house or buildings by the enemy while the same was occupied as a military deposit, under the authority of an officer or agent of the United States, shall be allowed and paid the amount of such damage: *Provided*, It shall appear that such occupation was the cause of its destruction.

Said act provided for the appointment of a commissioner to settle and adjust these claims under such rules and regulations as the President should prescribe.

Richard Bland Lee was appointed the commissioner, and by reference to American State Papers, Vol. Claims, pp. 490 to 496, will be found the rules and regulations prescribed by the President for the guidance of the commissioner.

The report there shows that the commissioner had, from July 1 to December 17, 1816, adjusted 850 claims upon which he awarded $229,693.15.

The commissioner stated in his report that the rules adopted by the President and himself had also been adopted by Congress in the passage of several private acts, in April, 1816, and, among others, acts for paying William Flood for a house burnt by the British; to pay Clinton County, N. Y., for a court-house burnt by order of General Macomb; and to pay Hamilton County, Ohio, for the court-house burnt while occupied by troops of the United States.

On February 20, 1818, the commissioner, through the Secretary of War, made a report showing what amount had been paid on claims under the ninth section, but this report does not appear to have been printed in the American State Papers. It is referred to on page 590.

The act of April 18, 1818, transferred all unadjusted claims to the Third Auditor and directed that he should settle and adjust them in accordance with the rules and regulations prescribed for the commissioner by the President under the act of 1816. (3 Stat. at L., p. 466.)

Subsequently Congress referred many claims that had not been filed within the limitations of the act of 1816 to the Third Auditor to be settled upon the rules mentioned.

Congress also passed many private claims of like character, among others for the numerous rope-walks and contents burnt at Baltimore by the commanding officer. (6 Stat. at L., pp. 150, 155, 221, 673.)

A partial list of these acts are appended hereto.

The same rule has been held to be the law by the highest courts of the United States.

In the case of Mitchell *vs.* Harmony (13 Howard, 115) this subject was fully and ably treated. The court says:

> There are occasions in which private property may be lawfully taken or destroyed to prevent it falling into the hands of the public enemy; also, where a military officer charged with a particular duty may impress private property or take it for public use. Unquestionably in such cases the Government is bound to make full compensation to the owner. (P. 134.)

In the case of the United States *vs.* Russell (13 Wallace, 623) the Supreme Court held precisely the same way as in Mitchell *vs.* Harmony.

In the case of William S. Grant *vs.* The United States (Court of Claims, 41) Judge Wilmot for the court treated these questions fully and ably. It was held that when the property of a citizen was destroyed by the order of a military officer to prevent it from falling into the hands of the enemy the Government was bound by public and national law to pay the owner the full value of such property.

No court in the United States has ever held the law to be different from that stated in these decisions.

Subsequently to the decision in the Grant case, Congress passed the act of July 4, 1864, restricting the jurisdiction of the Court of Claims by declaring that the jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction or appropriation of, or damage to, property by the Army or Navy, or any part of the Army or Navy, engaged in the suppression of the rebellion from the commencement thereof until the close. (13 Stat., 381.)

This act did not pretend to controvert the correctness of the court decisions nor to declare the Government was not liable for such claims. It merely suspended the jurisdiction of the court over cases that arose during that war. It still has jurisdiction over all cases that have or may arise since the close of the war. The right of indemnity exists for those arising during the war, but the remedy has been changed by taking it from the courts and referring to Congress.

Congress by nume ous acts has provided for paying for nearly every class of property taken, used, lost, captured, or destroyed in time of war.

It has provided for paying for all property taken by our troops from Mexican citizens during the war of 1846 with that country.

The acts of March 3, 1849, and March 3, 1863 (now sec. 3483, Rev. Stat.), directs payment for ho ses, mules, oxen, wagons, carts, sleighs, harness, steam-boats or other vessels, railroad engines and railroad cars, damaged, captured, or destroyed by the enemy or by the order of a commanding officer.

The act of March 3, 1871, provided for paying loyal citizens of the seceding states for stores and supplies taken for the use of the Army during the war.

The treaty of May 8, 1871, between the United States and Great Britain, provided that the United States should pay British subjects for all property taken, damaged, or destroyed by the civil or military authorities of the United States during the war of 1861.

The treaty of January 15, 1880, between the United States and France, contained the same provisions and obligations to pay French citizens.

Our Government by these treaties has again declared the liability of the Government for such claims.

The only reason ever assigned for not paying our citizens for such losses was the mistaken impression that they would be so great it would bankrupt the Government. This is a mere declaration not sustained by any facts. The aggregate would be small comparatively with the aggregate of those paid under the act of April 9, 1816, and subsequent acts for losses during the war of 1812.

We then had a population of about 8,000,000, and most of our people were poor; we now have 65,000,000, and the richest nation on the globe. We are far more able to pay now than we were in 1816, or France was in 1872. Can we not be as just now? Can not our Government deal as justly towards its own citizens as it has done with foreign residents?

The property of Hoffman was under military safeguard when destroyed. A safeguard in military law is equivalent to an insurance in civil law. The owner gives his allegiance as a consideration for his protection. Allegiance and protection go together. The citizen does his share to uphold the authority of the Government and in return the Government is bound to protect him and his property and pay for any injury done by its agents.

The items and value are clearly proven. The guarantied protection under General Order No. 2, of February 12, 1862, and the safeguard of April 17, 1862, given to Hoffman, entitles him to full compensation for the value of the property destroyed.

Section 4 of Article IV of the Constitution guaranties to every State protection against invasion, and the General Government, when called upon by the Executive, protection against domestic violence.

The safeguard given to Hoffman was a "guaranty" for the protection of his property.

To guaranty is to warrant, to become responsible for. It is essentially the same as warranty.

Safeguards are authorized and recognized by law in article 57 of the Articles of War, and the protection guarantied by the safeguard is a promise to warrant the party against loss or injury. This warranty was given by an authorized agent of the Government having authority to do so. The failure to comply with the guaranty makes the Government liable for the loss.

The Government is in a condition to meet all of its liabilities, and should now pay this claim as just and honest.

Congress has passed numerous private acts to pay for houses and buildings belonging to private citizens damaged or destroyed by orders of officers or agents of the Government, and also for those damaged or destroyed by the enemy in time of war, as will appear in Volume 6, Statutes at Large:

Act of April 16, 1800, to pay the Rhode Island College for the use and injuries to buildings by United States troops from December 10, 1776, to April 20, 1780. (Page 40.)

Act of February 2, 1815, to pay William Robinson and nine others for damage done to their property by United States troops. (Page 146.)

Act of February 27, 1815, to pay Jacob Shinnick and four others for the destruction of rope-walks and other property therein deposited, at Baltimore, by United States authorities. (Page 150.)

Act of February 27, 1815, to pay Wm. H. Washington for a house at the Potomac bridge destroyed by order of a United States officer, 1814. (Page 151.)

Act of March 3, 1815, to pay the Eastern Branch Bridge Company for damage done to the bridge, by order of the Navy Department, 1814. (Page 152.)

Act of March 3, 1815, to pay the Anacostia Bridge Company for the destruction of their bridge, by order of the military, in 1814. (Page 153.)

Act of March 3, 1815, to pay Thomas Sprigg for the destruction of his hempen yarn in the rope-walks near Baltimore by order of General Foreman. (Page 155.)

Act of March 3, 1815, to pay mechanics and others employed at the Washington navy-yard for the destruction of their property burnt by the British in 1814. (Page 155.)

Act of March 3, 1815, to pay James Savage and twenty others for the destruction of their houses and property at Plattsburgh, N. Y., in 1814, by order of General Macomb. (Page 155.)

Act of April 24, 1816, to pay Wm. Flood for property destroyed by the British at New Orleans in 1815. (Page 163.)

Act of April 26, 1816, to pay Clinton County, N. Y., for a court-house destroyed by order of General Macomb in 1814. (Page 164.)

Act of April 26, 1816, to pay Hamilton County, Ohio, for the destruction by fire of the court-house while occupied by United States troops. (See 3 Stat. at L., page 306.)

Act of April 26, 1816, to pay the Washington Bridge Company for injury to their bridge, by order of United States officers, in 1814. (Page 168.)

Act of April 27, 1816, to pay Samuel Manac for his property destroyed by hostile Creeks in late war. (Page 171.)

Act of April 27, 1816, to pay the estate of John Ross for the occupation of his farm and destruction of his buildings by United States troops at Point Petre, Georgia, war of 1812. (Page 173.)

Act of March 1, 1817, to pay the estate of Ignace C. Delino and others for their property destroyed near New Orleans by order of General Jackson. (Page 186.)

Act of March 3, 1817, to pay Madame Montriuel for injury to her property, by order of General Jackson. (Page 187.)

Act of March 3, 1817, to pay Peter Casland for the destruction of his saw-mill and other property, by order of General Morgan. (Page 188.)

Act of March 3, 1817, to pay the friendly Creek Indians $85,000 for their property destroyed by hostile Creeks in War of 1812. (Page 191.)

Act of March 3, 1817, to pay Joseph I. Green for damage done to his house at Plattsburgh, N. Y., in 1814, by order of General Macomb. (Page 193.)

Act of March 3, 1817, to pay Caleb Nicholls for damage done to his house and store, by order of General Macomb, at Plattsburgh, N. Y., in 1814. (Page 194.)

Act of March 3, 1817, to pay James H. Boisgervais for the destruction of his saw-mill and property, near New Orleans, by order of General David B. Morgan. (Page 195.)

Act of March 3, 1817, to pay William Oliver for the destruction of his house, by order of the officer who commanded at Fort Wayne, in 1812. (Page 196.)

Act of April 11, 1818, to pay Sarah Dewees and others $8,000 for property taken for public use in war. (Page 207.)

Act of April 18, 1818, to pay Thomas Miller and Stephen Baker, of New York City, $3,500 for the value of a house burnt in Greenwich, N. Y., while rented and occupied by United States troops. (Page 209.)

Act of April 20, 1818, to pay Samuel F. Hooker, of Sackett's Harbor, N. Y., for property taken for public use, and for a house and barn destroyed by the enemy at Cape St. Vincent. (Page 211.)

Act of January 19, 1819, to pay Mottrom Ball, of Northumberland County, Va., $1,400 for the destruction of his buildings on Old Court-House Point. (Page 217.)

Act of February 16, 1819, to pay Daniel Renner and N. H. Heath $19,803.60 for cordage, spun yarn, and hemp burnt in their rope-walk, in August, 1814. (Page 221.)

Act of March 3, 1819, to pay Michael Hogan, of Utica, N. Y., $1,100 for damages done to his house by United States troops. (Page 231.)

Act of December 29, 1820, to pay Elias Parks, of Oswego, N. Y., for goods destroyed by the British in 1814. (Page 254.)

Act of March 2, 1821, to pay Rosalie P. Deslonde $2,227 for damage done to her house and plantation by United States troops, near New Orleans, in 1814. (Page 258.)

Act of March 2, 1821, to pay John Rodriguez $1,857 for injuries to his buildings and plantation while occupied by United States troops in 1814, near New Orleans. (Page 259.)

Act of March 2, 1821, to pay Francis B. Languille $2,250 for injury to his buildings while occupied by United States troops in 1814, near New Orleans. (Page 259.)

Act of March 2, 1821, to pay Alexander Milne $2,500 for the destruction of buildings and other property by the United States troops at New Orleans in 1814. (Page 259.)

Act of March 2, 1821, to pay Lewis H. Guerlain, of Louisiana, $420 for injury to his plantation and buildings by United States troops in 1814. (Page 259.)

Act of March 2, 1821, to pay Joseph McNeil $700 for injuries sustained during the invasion of the British of New Orleans in 1814. (Page 259.)

Act of March 2, 1821, to pay Bartholomew Duverge, of New Orleans, $2,100 for use and destruction of property by United States troops in 1814. (Page 260.)

Act of March 2, 1821, to pay Pierre Dennis de la Roude $5,770.50 for injury to his plantation and buildings while occupied by United States troops in 1814 near New Orleans. (Page 260.)

Act of April 17, 1822, to pay John Anderson, of Michigan, $1,300 for his house destroyed by fire in 1813 while occupied by United States troops without his consent. (Page 264.)

Act of May 1, 1822, to pay James May $1,800, and the legal representatives of William Macomb $2,900, both of Detroit, for injuries done to their farms by United States troops during the War of 1812. (Page 266.)

Act of May 7, 1822, to pay William Henderson $2,765 for property destroyed by the British, at Munday's Point, Va., War 1812. (Page 268.)

Act of May 7, 1822, to pay Edward McCarty's estate $2,940 for property destroyed during the invasion of Louisiana in 1814. (Page 270.)

Act of May 7, 1822, to pay the legal representatives of Joseph Hodgson, of Washington, D. C., for the value of a dwelling-house destroyed by fire in 1800, while rented and occupied by the Secretary of War. (Page 273.)

Act of May 7, 1822, to pay Solomon Provost, of Louisiana, $1,966 for losses by British invasion in 1814. (Page 273.)

Act of May 7, 1822, to pay Thomas Shields, of Louisiana, $1,693.10 for property burned by order of Lieutenant Jones, U. S. Navy, at Bay St. Louis, in 1814. (Page 274.)
Act of May 7, 1822, to pay Matthew McNair, of Michigan, $3,000 for a boat destroyed by order of the commanding officer at French Mills, Mich. (Page 275.)
Act of May 7, 1822, to pay John Pellet, of Louisiana, $3,864 for the destruction of his buildings and other property during the invasion of 1814. (Page 277.)
Act of March 3, 1823, to pay Edward Evat $1,338.81 for his house burnt while occupied by United States troops. (Page 281.)
Act of March 3, 1823, to pay Eleanor Lawrence $1,070 for damages to her farm on Long Island, N. Y., by occupation of United States troops in 1813. (Page 282.)
Act of March 3, 1823, to pay Samuel Walker $175, Joseph L. Dutton $450, John Martin and others $175, for injuries done to their lands near Marcus Hook on the Delaware River, in 1814, by erecting defensive works thereon. (Page 284.)
Act of May 17, 1824, to pay the estate of Samuel Minis $1,800 for buildings destroyed by hostile Indians at Fort Misus, Ohio, in 1813. (Page 300.)
Act of May 17, 1824, to pay William T. Nimmo $500 for the destruction of a house in Princess Anne County, Va., by the British in 1813. (Page 300.)
Act of May 17, 1824, to pay David Cooper $80 for an unfinished house pulled down and converted into a barrack. (Page 301.)
Act of May 18, 1824, to pay Lemuel Arms $150 for the destruction of a building at Sacket's Harbor, N. Y., by United States troops in January, 1815. (Page 304.)
Act of May 25, 1824, to pay Alexander McNair, of Missouri, $2,000 for his house burnt near Fort Massack, while occupied by United States troops. (Page 314.)
Act of March 3, 1825, to pay Joseph Dozet and Antoine Bourgoud $400 for destruction of their property at River Raisin, Mich., in 1812, by order of Col. John Anderson. (Page 323.)
Act of March 3, 1825, to pay Sarah Shillito $350 for her house destroyed in 1813, while occupied by United States troops. (Page 325.)
Act of March 3, 1829, to pay the legal representatives of John Guest for a frame house and brick office burnt by the British at Havre de Grace in 1813. (Page 400.)
Act of January 30, 1830, to pay Joel Byington $282.16 for damage done to his house and barn by United States troops. (Page 403.)
Act of February 11, 1830, to pay Joseph Dixon $30 for damage to his lot on Dixon's Point, Me., by taking soil therefrom to erect fortifications. (Page 404.)
Act of February 11, 1830, to pay the church wardens of Elizabeth City, Va., $130.50 for recasting a bell broken during the war of 1812 while used as an alarm by the commanding officer at that place. (Page 404.)
Act of February 11, 1830, to pay Peter Ford $133 for oxen lost on retreat from River Raisin. (Page 405.)
Act of April 7, 1830, to pay Jean Baptiste Centure $2,000 for house, store, stable, and other buildings at Frenchtown, Mich., destroyed by the British and Indians in 1813 while occupied by the United States troops. (Page 411.)
Act of April 7, 1830, to pay John Rodriguez $883 for injury to his plantation by erecting earthworks thereon. (Page 412.)
Act of April 7, 1830, to pay Hubert La Croix, of Michigan, for the destruction of his house at Frenchtown, in 1813, by the British and Indians. (Page 412.)
Act of May 29, 1830, to pay the heirs of the widow Dupre $8,995 for the destruction and damage of her buildings near New Orleans, by the United States military forces under General Jackson in 1815. (Page 438.)
Act of May 31, 1830, to pay Jean Baptiste Jerome for a barn burnt by order of an American officer at Frenchtown, Mich., to prevent its use as a cover for the British and Indians in 1813. (Page 448.)
Act of May 31, 1830, to pay Gabriel Godfrey for the destruction of his barn and other property, by order of an American officer, at Frenchtown, Mich., to prevent its use as a cover by the British and Indians in 1813. (Page 450.)
Act of March 3, 1831, to pay Benjamin S. Smoot, of Alabama, $1,000 for a house destroyed by order of a United States officer to prevent its being a shelter for the British in their attack upon Fort Bowyer in 1814. (Page 466.)
Act of May 3, 1832, to pay Pericia Tupper $450 for a barn destroyed by the British near Buffalo, N. Y., in the war of 1812. (Page 478.)
Act of July 14, 1832, to pay Silvia Posner for a house and other buildings burnt in the war of 1812, while occupied by United States troops. (Page 513.)
Act of July 14, 1832, to pay Samuel May, of Buffalo, N. Y., $3,150 for the destruction of two warehouses by the British in 1813. (Page 518.)
Act of July, 1832, to pay John Brunson for the value of a house and store destroyed by the British at Buffalo, N. Y. (Page 518.)
Act of July 14, 1832, to pay estate of Edward Barry $568.35 for property destroyed in the burning of the Washington Navy-Yard by the British in 1814. (Page 520.)
Act of July 14, 1832, to pay Augustine Taney for buildings burnt by the British near Baltimore, Md., in 1814. (Page 525.)

Act of July 14, 1832, to pay Henry Waller for buildings burnt by the British on the eastern shore of Maryland in 1814. (Page 525.)

Act of February 9, 1833, to pay Gabriel Godfrey and Jean Baptiste Beaugrand $1,020 for a barn, store-house, and stable burnt by the British and Indians at Frenchtown, Mich., in 1813. (Page 534.)

Act of March 2, 1833, to pay the estate of George Hodge $824.18 for property destroyed in the burning of the Washington Navy-Yard by the British in 1814. (Page 545.)

Act of March 2, 1833, to pay Joshua P. Frotheringham $1,500 for a building burnt at Charlestown, Mass., in 1776, by order of General Putnam. (Page 546.)

Act of June 30, 1834, to pay Henry Sewall and Robert Sewall, of St. Mary's County, Md., $10,000 for property destroyed by the British. (Page 585.)

Act of June 30, 1834, to pay the estate of John Rose $2,500 for property burnt by the British at Washington Navy-Yard. (Page 594.)

Act of March 3, 1835, to pay estate of Aaron Smith, of Champlain, N. Y., $80 for the destruction of his property by United States troops. (Page 617.)

Act of March 3, 1835, to pay John I. Avery $200 for occupation of his land and erecting earthworks thereon. (Page 618.)

Act of February 17, 1836, directing payment to James Tilford for property destroyed upon the principles of the acts of April 9, 1816, and March 3, 1817, to pay for property destroyed by the enemy. (Page 622.)

Act of February 17, 1836, to pay to William Baker $225.30 for the use and damage done to his property at Sacket's Harbor, in 1813, by United States troops. (Page 623.)

Act of February 17, 1836, to pay Jacob B. Gilbert $600 for a house destroyed by the British on Niagara frontier. (Page 625.)

Act of February 17, 1836, to pay the estate of Thomas Beacham, of Northumberland County, Va., $600, for a barn burnt by the British, War of 1812. (Page 626.)

Act of June 23, 1836, to pay Charles M. Frazier, of St. Leonards, Md., for a house burnt by the British in 1814. (Page 642.)

Act of July 1, 1836, to pay the heirs of Wm. Forbes $2,100, for houses burnt by the British at Kinsale, Va., War of 1812. (Page 660.)

Act of July 1, 1836, to pay estate of Michael Fenwick, $5,000, for a dwelling-house destroyed by the British, while occupied by United States troops; and to adjust and settle claims for other houses burnt by the British. (Page 661.)

Act of July 2, 1836, to pay estate of Nathaniel Canada for a toll-house and bridge across Niantic River, Conn., burnt by the British in 1814. (Page 669.)

Act of July 2, 1836, to pay Charles J. Catlett for tobacco destroyed by the British and American troops, in warehouses at Baltimore, Md., in 1814. (Page 673.)

Act of March 3, 1837, to pay David Kilborn, of Oswego, N. Y., $2,500, for property destroyed, War of 1812. (Page 690.)

Act of February 22, 1838, to pay estate of John McCarty, $1,000, for a house burnt by the British at Farnham, Va., in 1814. (Page 703.)

Act of March 7, 1838, to ascertain value of property of Frances Gardener, destroyed by order of the commanding officer at Fort Brooks, Fla. (Page 705.)

Act of March 19, 1838, to pay estate of Benjamin H. Mackall, for houses destroyed by the British in 1814, in Maryland. (Page 707.)

Act of March 28, 1838, to pay James I. Pattison, of Calvert County, Md., $4,200 for house and other property destroyed by the British in 1814. (Page 709.)

Act of April 6, 1838, to pay William Eadus $2,000, for a house burnt by the British at Sodus, N. Y., in 1813. (Page 710.)

Act of April 20, 1838, to pay Calvert County, Md., $3,000, for court-house burnt by the British in 1814. (Page 711.)

Act of July 7, 1838, to pay Richard Frisby, of Kent County, Md., $2,000, for property destroyed by the British in 1814. (Page 743.)

Act of March 3, 1839, to pay estate of Michael Fenwick $7,000, for houses burnt by the British in Washington, D. C. (Page 759.)

Act of July 27, 1842, to pay Archibald McCallum, of Rouse's Point, N. Y., $930 for a house burnt in 1839 while occupied by United States troops. (Page 844.)

Act of August 1, 1842, to pay Sylvester Phelps, and the heirs of Charles Landon, $2,100 for a house burnt at South Hero, Vt., War of 1812, while occupied by United States troops. (Page 848.)

Act of August 26, 1842, to pay John King $900 for a dwelling-house burnt by the British in Richmond County, Va., War of 1812. (Page 865.)

Act of August 26, 1842, to pay James Tongue $1,837.78, John Scrivener $3,840, and estate of William Hodson $3,968.39 for buildings destroyed by the British, October, 1814. (Page 866.)

Act of March 1, 1843, to pay William G. Sanders $900 for a house burnt at Fort Brooks, Fla., in 1836, by order of Captain Belton, U. S. Army, to prevent it being used as a cover by the enemy.

Act of March 3, 1843, to pay Charles Waldron $1,179.61 for buildings and other property destroyed at Micanopy, Fla., in 1836, by order of the commanding officer, to prevent its falling into the hands of the enemy. (Page 891.)

Many other similar claims have been paid by acts of Congress since those herein named, and some since the war of 1861.

These acts prove that the United States has always held it to be the public and international law that the property of the citizen was taken or destroyed for the use, benefit, or advantage of the Government and the public; that the owner is entitled to just indemnity therefor by being paid the value thereof.

The public act of April 9, 1816, and these numerous private acts, all declare this to be the law of the nation governing such claims.

Most of the claims under the act of 1816, and the private acts named, originated along the sea board or on the western or northern frontier.

Those of like character originating during the late war occurred along the borders of the States adjoining the seceding States.

If it was just to pay such claims growing out of the War of 1812, when our population was but 8,000,000 and the nation comparatively poor, why should not our Government, with a population of 65,000,000 and one of the richest nations on earth in material wealth, pay those who were so unfortunate as to lose their property under similar circumstances? We have paid foreign residents for such losses sustained by them, and now it is time our own citizens should be paid.

Your committee, therefore, recommend the passage of the bill.

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